Supreme Court, U.S.
FILED
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(3)

No. 96-738

In The

Supreme Court of the United States

October Term, 1996

MARIO SALINAS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit

JOINT APPENDIX

FRANCISCO J. ENRIQUEZ*
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Petition For Certiorari Filed November 12, 1996
Certiorari Granted February 24, 1997

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RELEVANT DOCKET ENTRIES

APPEAL CLOSED

U.S. District Court
TXS – Southern District of Texas (McAllen)

CRIMINAL DOCKET FOR CASE #: 94-CR-10-2

USA v. Marmolejo, et al — Filed: 01/18/94
Case Assigned to: Judge George P. Kazen
Dkt# in other court: None

MARIO NMI SALINAS
Route 4, Box 74 Santa Fe
Edinburg, TX 78539
defendant
[term 11/23/94]

Francisco J Enriquez
[term 11/23/94]
[COR LD NTC ret]
Rodriguez Pruneda Tovar
Enriquez & Calvillo
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Pending Counts:	Disposition
18 USC 9162(d) RICO Conspiracy (Offense Date: 7/91 to 8/93) Penalty: 20 yrs and/or $250,000 fine plus 3 yrs SRT And $50 Spec. Assess. (2)	Cts. 2-4: 36 months to serve; 3 yrs TSR and $5,000 fine. (2)
18 USC 666(a)(1)(B) & 18 USC 2 Bribery in relation to a program receiving more than $10,000 in Federal Funds (Offense Date: 10/1/91 to 4/14/92) Penalty: 10 yrs and/or $250,000 fine plus 3 yrs SRT and $50 Spec. Assess. (3)	Cts. 2-4: 36 months to serve; 3 yrs TSR and $5,000 fine. (3)

18 USC 666(a)(1)(B), 18:2 Bribery in relation to a program receiving more than $10,000 in Federal Funds (Offense Date: 10/1/91 to 7/20/93) Penalty: 10 yrs and/or $250,000 fine plus 3 yrs SRT and $50 Spec. Assess. (4)

Cts. 2-4: 36 months to serve; 3 yrs TSR and $5,000 fine. (4)

Offense Level (opening): 4

Terminated Counts: Disposition

18 USC RICO (Offense Date: 7/91 to 8/93) Penalty: 20 yrs and/or $250,000 fine plus 3 yrs SRT (1)

Acquitted by jury after trial (1)

Offense Level (disposition): 4

Complaints:

NONE

BRIGIDO NMI MARMOLEJO, JR

defendant

==========

MARIO NMI SALINAS

defendant

==========

ELOY NMI ZAVALA

defendant

==========

EDELMIRO NMI FLORES

defendant

==========

USA

plaintiff

U. S. Attorneys:

Greg Surovic
[COR LD NTC]
US Attorneys Office
1701 W Hwy 83
Ste 305
McAllen, TX 78502
210-630-3173
FTS 529-8650

8/17/93	–	APPLICATION AND AFFIDAVIT for Search Warrant, filed. IRS S/A John Trevino. (mis) [Entry date 02/01/94]
8/17/93	–	Search Warrant Issued in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores by Mag Judge Peter E. Ormsby (mis) [Entry date 02/01/94]
8/17/93	–	MOTION AND ORDER GRANTING EX PARTE MOTION TO SEAL AFFIDAVITS as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores, filed. (mis) [Entry date 02/01/94] [Edit date 02/07/94]

8/17/93	–	Search Warrant Issued in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores by Mag Judge Peter E. Ormsby (mis) [Entry date 02/01/94]
8/17/93	–	Search Warrant Issued in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores by Mag Judge Peter E. Ormsby (mis) [Entry date 02/01/94]
8/17/93	–	Search Warrant Issued in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores by Mag Judge Peter E. Ormsby (mis) [Entry date 02/01/94]
8/19/93	–	Search Warrant Issued in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores by Mag Judge Peter E. Ormsby (mis) [Entry date 02/01/94]
8/19/93	–	AFFIDAVIT for Search Warrant, filed. (mis) [Entry date 02/01/94]
8/19/93	–	Search Warrant Returned in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores, filed. (mis) [Entry date 02/01/94] [Edit date 02/07/94]

8/19/93	–	AFFIDAVIT for Search Warrant, filed. (mis) [Entry date 02/01/94]
8/19/93	–	Search Warrant Returned in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores, filed. (mis) [Entry date 02/01/94] [Edit date 02/07/94]
8/19/93	–	AFFIDAVIT for Search Warrant, filed. (mis) [Entry date 02/01/94]
8/19/93	–	Search Warrant Issued in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores by Mag Judge Peter E. Ormsby (mis) [Entry date 02/01/94]
8/19/93	–	Search Warrant Returned in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores, filed. (mis) [Entry date 02/01/94] [Edit date 02/07/94]
8/19/93	–	AFFIDAVIT for Search Warrant, filed. (mis) [Entry date 02/01/94]
8/19/93	–	Search Warrant Returned in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores, filed. (mis) [Entry date 02/01/94] [Edit date 02/07/94]

1/18/94	1 48	INDICTMENT as to Brigido NMI Marmolejo (1) count(s) 1, 2, 3, 4, 5-7, 8, Mario NMI Salinas (2) count(s) 1, 2, 3, 4, Eloy NMI Zavala (3) count(s) 2, 3, Edelmiro NMI Flores (4) count(s) 2, 3, 4, filed. (mis) [Entry date 02/01/94]
1/18/94	2 49	ORDER for Bench Warrant and setting Bond at $100,000 w/10% for Brigido NMI Marmolejo; Bond set to $50,000 w/10% for Mario NMI Salinas; Bond set to $50,000 w/10% for Eloy NMI Zavala; Bond set to $50,000 w/10% for Edelmiro NMI Flores. (Signed by Mag Judge Nancy K. Pecht), entered. (mis) [Entry date 02/01/94] [Edit date 02/01/94]
1/18/94	–	Bench WARRANT issued as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores (mis) [Entry date 02/01/94]
1/18/94	3 50	First Appearance as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Mag Judge William M. Mallet (Ct Reporter: ERO) Deft's appeared w/counsel. Deft remanded to custody. (Defendant informed of rights.), filed. (mis) [Entry date 02/01/94]

1/18/94	5 51	NOTICE of Appearance for Mario NMI Salinas by Attorney Francisco Enriquez, filed. (mis) [Entry date 02/01/94]
1/18/94	8 56	APPERANCE [sic] BOND entered by Mario NMI Salinas in Amount $50,000 with $1,000 deposit, filed. Bond Depositor: Frank Enriquez; 4401 North 22nd St.; McAllen, Texas 78504 (mis) [Entry date 02/01/94]
1/18/94	–	ORDER Setting Conditions of Release as to Mario NMI Salinas (Signed by Mag Judge William M. Mallet), entered. (mis) [Entry date 02/01/94]
1/25/94	18 57	Arraignment held before Mag Judge William M. Mallet (Ct Reporter: ERO) App: Greg Surovic f/govt, Robert Flores f/deft 1, Francisco Enriquez f/deft 2, Oscar Alvarez f/deft 3 and Oscar Alvarez f/deft 4. Defts cont'd on bond. Brigido NMI Marmolejo (1) count(s) 1, 2, 3, 4, 5-7, 8, Mario NMI Salinas (2) count(s) 1, 2, 3, 4, Eloy NMI Zavala (3) count(s) 2, 3, Edelmiro NMI Flores (4) count(s) 2, 3, 4, filed. (mis) [Entry date 02/03/94] [Edit date 02/09/94]
1/25/94	–	PLEA entered. Court accepts plea. Not Guilty:, Brigido NMI Marmolejo (1) count(s) 1, 2, 3, 4,

		5-7, 8, Mario NMI Salinas (2) count(s) 1, 2, 3, 4, Eloy NMI Zavala (3) count(s) 2, 3, Edelmiro NMI Flores (4) count(s) 2, 3, 4 (mis) [Entry date 02/03/94]
1/25/94	20 58	NOTICE TO DEFT as to Mario NMI Salinas setting Motion Filing deadline on 2/7/94; Pretrial Conference for 9:00 2/28/94; Jury Selection for 9:00 3/1/94; before Judge Ricardo H. Hinojosa (Signed by Mag Judge William M. Mallet), entered. Parties ntfd. (mis) [Entry date 02/03/94] [Edit date 02/09/94]
2/3/94	23	MOTION by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores SEALED MOTION, filed. (mis) [Entry date 02/08/94] [Edit date 02/09/94]
2/4/94	25 59	Bench WARRANT Returned Executed as to Mario NMI Salinas on 1/18/94, filed. (mis) [Entry date 02/10/94]
2/7/94	52 61	MOTION by Mario NMI Salinas for grand jury transcripts, filed. (mis) [Entry date 02/10/94]
2/7/94	53 63	MOTION by Mario NMI Salinas to discover criminal records of witnesses, filed. (mis) [Entry date 02/10/94]

2/7/94	54 65	MOTION by Mario NMI Salinas for Govt to reveal agreements/concession/leniency/immunity to Witnesses, filed. (mis) [Entry date 02/10/94]
2/7/94	55 69	MOTION by Mario NMI Salinas for identification of informant, filed. (mis) [Entry date 02/10/94]
2/7/94	56 75	MOTION by Mario NMI Salinas for discovery and inspection, filed. (mis) [Entry date 02/10/94]
2/7/94	57 77	MOTION by Mario NMI Salinas for discovery witness list, filed. (mis) [Entry date 02/10/94]
2/7/94	58 79	MOTION by Mario NMI Salinas for Jencks Act Material, filed. (mis) [Entry date 02/10/94]
2/7/94	59 81	MOTION by Mario NMI Salinas for discovery and suppression of co-conspirator statmeents [sic], filed. (mis) [Entry date 02/10/94]
2/7/94	60 83	MOTION by Mario NMI Salinas to extend time to file additional pretrial motions, filed. (mis) [Entry date 02/10/94]
2/7/94	61 86	MOTION by Mario NMI Salinas to unseal Seach [sic] Warrant Affidavit and to suppress evidence, filed. (mis) [Entry date 02/10/94]

2/7/94	62 90	MOTION by Mario NMI Salinas for production and inspection of evidence and information which may lead to evidence, filed. (mis) [Entry date 02/10/94]
2/7/94	63 94	MOTION by Mario NMI Salinas for disclosure of impeaching information, filed. (mis) [Entry date 02/10/94]
2/7/94	64 100	MOTION by Mario NMI Salinas for Bill of Particulars, filed. (mis) [Entry date 02/10/94]
2/7/94	65 105	MOTION with Memorandum in Support by Mario NMI Salinas to require govt to serve notice of existence of electronic or mechanical surveillance, filed. (mis) [Entry date 02/10/94]
2/7/94	66 108	MOTION by Mario NMI Salinas for severance of trial, filed. (mis) [Entry date 02/10/94]
2/7/94	67 116	MOTION by Mario NMI Salinas to dismiss RICO counts in indictment, filed. (mis) [Entry date 02/10/94]
2/7/94	68 118	MOTION by Mario NMI Salinas to Join in Motions of co-deft's, filed. (mis) [Entry date 02/10/94]
2/7/94	69 124	MOTION by Mario NMI Salinas to dismiss based on double jeopardy, filed. (mis) [Entry date 02/10/94]

2/7/94	70 130	MOTION by Mario NMI Salinas to dismiss 18 USC 666 Counts in the indictment, filed. (mis) [Entry date 02/10/94]
2/7/94	71 173	MOTION by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores for sequestered and anonymous jury, filed. (mis) [Entry date 02/10/94]
2/7/94	72 175	MOTION by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores to unseal affidavits, filed. (mis) [Entry date 02/10/94]
2/7/94	73 180	MOTION by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores to Allow Counsel to Conduct Voir Dire Examination, filed. (mis) [Entry date 02/10/94]
2/7/94	74 183	MOTION by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores in limine, filed. (mis) [Entry date 02/10/94]
2/7/94	75 190	RESPONSE by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala,

		Edelmiro NMI Flores re: Defts' Motions for discovery and request for reciprocal discovery, filed. (mis) [Entry date 02/10/94]
2/7/94	76 191	Excludable Delay Worksheet X-E Ptrl Mtns start 2/7/94 as to Mario NMI Salinas, filed. (mis) [Entry date 02/10/94]
2/7/94	96	Motion hearing held as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores re: granting [51-1] motion to substitute attorney Roberto Yzaguirre for Jose chapa as to Eloy NMI Zavala (3) before Judge Ricardo H. Hinojosa (Ct Reporter: ERO) THE REST OF THESE PROCEEDINGS ARE SEALED BY THIS COURT, filed. (mis) [Entry date 02/14/94]
2/9/94	97 194	RESPONSE by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores re: [90-1] motion to determine existence of conspiracy, [88-1] motion to determine existence of conspiracy, [41-1] motion for hearing to determine existence of conspiracy, [37-1] motion for separate hearing to determine existence of conspiracy, filed. (mis) [Entry date 02/16/94]

2/10/94	118	TRANSCRIPT filed in case as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores for In Chambers Conference Hearing for dates of 2/10/94, filed. (pg) [Entry date 02/28/94] SEALED
2/11/94	100 205	RESPONSE by USA as to Mario NMI Salinas, Edelmiro NMI Flores re: [92-1] motion to dismiss RICO counts in indictment, [67-1] motion to dismiss RICO counts in indictment, filed. (mis) [Entry date 02/16/94]
2/11/94	102 206	ORDER granting [60-1] motion to extend time to file additional pretrial motions as to Mario NMI Salinas (2) (Signed by Mag Judge William M. Mallet), entered. Parties ntfd. (mis) [Entry date 02/16/94]
2/11/94	104 207	ORDER unsealing search warrants as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores (Signed by Mag Judge William M. Mallet), entered. Parties ntfd. (mis) [Entry date 02/17/94]
2/11/94	117 213	RESPONSE by USA as to Mario NMI Salinas, Edelmiro NMI Flores re: [93-1] motion to dismiss 18 USC 666 Counts in the indictment, [70-1] motion to

		dismiss 18 USC 666 Counts in the indictment, filed. (mis) [Entry date 02/17/94]
2/11/94	–	Deadline updated set dispositive motion filing deadline for 2/22/94 for Mario NMI Salinas, for Eloy NMI Zavala, for Edelmiro NMI Flores (mis) [Entry date 02/23/94]
2/16/94	120 216	RESPONSE by USA as to Mario NMI Salinas re: [69-1] motion to dismiss based on double jeopardy, filed. (pg) [Entry date 02/28/94]
2/17/94	121 221	RESPONSE by USA as to Mario NMI Salinas re: [66-1] motion for severance of trial, filed. (pg) [Entry date 02/28/94]
2/18/94	122 224	RESPONSE by USA as to Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores re: [91-1] motion for grand jury transcript, [52-1] motion for grand jury transcripts, filed. (mis) [Entry date 03/01/94]
2/18/94	123 227	RESPONSE by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores re: [111-1] motion for Notice of Govt intent to use evidence, [80-1] motion for Notice of Govt intent to use evidence, [48-1] motion for Notice of Govt intent to use evidence, filed. (mis) [Entry date 03/01/94]

2/22/94	124 231	RESPONSE by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores re: [112-1] motion for Bill of Particulars, [64-1] motion for Bill of Particulars, [39-1] motion for Bill of Particulars, [30-1] motion for Bill of Particulars, filed. (mis) [Entry date 03/01/94]
2/22/94	125 235	RESPONSE by Mario NMI Salinas to [71-1] motion for sequestered and anonymous jury, filed. (mis) [Entry date 03/01/94]
2/22/94	126 239	SECOND MOTION by Mario NMI Salinas to suppress evidence, filed. (mis) [Entry date 03/01/94]
2/22/94	127 243	THIRD MOTION by Mario NMI Salinas to suppress evidence, filed. (mis) [Entry date 03/01/94]
2/22/94	128	SEALED In-chambers conference as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Judge George P. Kazen, filed. (mis) [Entry date 03/01/94]
2/23/94	131 246	JOINT MOTION by Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala,

		Edelmiro NMI Flores, USA for a proposed scheduling order, filed. (sa) [Entry date 02/25/94]
2/23/94	132 248	ORDER granting [131-1] joint motion for a proposed scheduling order as to Brigido NMI Marmolejo (1), Mario NMI Salinas (2), Eloy NMI Zavala (3), Edelmiro NMI Flores (4) (Signed by Mag Judge William M. Mallet), entered. Parties ntfd. Motion to be filed by March 25, 1994, responses to motions to be filed by April 1, 1994, Final pretrial is set f/April 26, 1994, Jury Selection set f/May 9, 1994 and trial set f/May 10, 1994. (sa) [Entry date 02/25/94]
2/23/94	–	Deadline updated set scheduling order deadlines: Pretrial Conference for 4/26/94; Jury Selection for 5/9/94; Motion Response by 4/1/94; Motion Filing to 3/25/94; Jury Trial for 5/10/94 for Brigido NMI Marmolejo Jr, for Mario NMI Salinas, for Eloy NMI Zavala, for Edelmiro NMI Flores (sa) [Entry date 02/25/94]
2/23/94	133 249	ORDER OF RECUSAL as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores (Signed by Judge Ricardo H. Hinojosa), entered. Parties ntfd. (sa) [Entry date 02/25/94]

2/23/94	–	CASE reassigned to Judge George P. Kazen (sa) [Entry date 02/25/94]
3/4/94	134 292	RESPONSE by USA as to Mario NMI Salinas re: [127-1] motion to suppress evidence, [126-1] motion to suppress evidence, filed. (sa) [Entry date 03/16/94]
3/14/94	139 294	Rule 12.3 NOTICE by Mario NMI Salinas, filed. (pg) [Entry date 03/28/94]
3/15/94	140 297	Response by USA to Mario NMI Salinas Notice of intention to claim a defense of actual or believed exercise of public authority pursuant to Rule 12.3, filed. (pg) [Entry date 03/28/94]
3/15/94	141 299	Pending Motions Hearing as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Judge George P. Kazen Ct Reporter: A DeLeon T. Canales, F Enriquez, J Chapa and O Alvarez f/defts. Court will enter ruling on grand jury transcript testimony. Govt will reveal deal w/informant. Exculpatory material will be given to defts by Govt. Govt will disclose 404(b) material by 4/1/94. Addl motions due 3/25/94 Responses due 4/1/94. Deft 4 Motion to suppress co-deft stmts – MOOT. Deft 1 404(b) motion – Govt will

		respond on issue of bribery. Ct takes motions under advisement. Oral motion to try case in McAllen – DENIED. Case may be set for trial May or June 1994. (pg) [Entry date 03/28/94]
3/15/94	–	ORAL ORDER as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores granting [107-1] motion for Pretrial Notice of 404(b) Evidence as to Brigido NMI Marmolejo (1), mooting [83-1] motion to suppress any oral or written statements of a co-deft as to Edelmiro NMI Flores (4), granting [54-1] motion for Govt to reveal agreements/ concession/leniency/immunity to Witnesses as to Mario NMI Salinas (2) (Entered by Judge George P. Kazen) (pg) [Entry date 03/28/94]
3/25/94	143 307	AMENDED MOTION by Mario NMI Salinas to dismiss based upon double jeopardy referring to: [69-1] motion to dismiss based on double jeopardy, filed. (mis) [Entry date 03/29/94]
3/25/94	144 318	SECOND MOTION by Mario NMI Salinas to dismiss 18 USC 666 Counts in the indictment based on lack of federal assistance, filed. (mis) [Entry date 03/29/94]

3/25/94	145 321	SUPPLEMENTAL MOTION by Mario NMI Salinas to dismiss 18 USC 666 Counts of the indictment referring to: [93-1] motion to dismiss 18 USC 666 Counts in the indictment, filed. (mis) [Entry date 03/29/94]
3/25/94	146 325	SUPPLEMENTAL MOTION by Mario NMI Salinas to suppress evidence referring to: [126-1] motion to suppress evidence, filed. (mis) [Entry date 03/29/94]
3/28/94	148 330	RESPONSE by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores re: Defts' Motions for notice of Rule 404(B) material, filed. (mis) [Entry date 03/29/94]
4/4/94	149 336	RESPONSE by USA as to Mario NMI Salinas re: [144-1] motion to dismiss 18 USC 666 Counts in the indictment based on lack of federal assistance, filed. (mis) [Entry date 04/07/94]
4/4/94	150 339	RESPONSE by USA as to Mario NMI Salinas re: [143-1] amended motion to dismiss based upon double jeopardy, filed. (mis) [Entry date 04/07/94]
5/3/94	154 342	Motion hearing held as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala,

		Edelmiro NMI Flores re: denying [146-1] supplemental motion to suppress evidence as to Mario NMI Salinas (2), denying [143-1] amended motion to dismiss based upon double jeopardy as to Mario NMI Salinas (2), denying [127-1] motion to suppress evidence as to Mario NMI Salinas (2), denying [126-1] motion to suppress evidence as to Mario NMI Salinas (2), withdrawing [71-1] motion for sequestered and anonymous jury as to Brigido NMI Marmolejo (1), Mario NMI Salinas (2), Eloy NMI Zavala (3), Edelmiro NMI Flores (4), denying [69-1] motion to dismiss based on double jeopardy as to Mario NMI Salinas (2) before Judge George P. Kazen (Ct Reporter: Alf DeLeon), filed. (mis) [Entry date 05/09/94]
5/3/94	155 359	COURT'S EXHIBIT LIST as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores, filed. (mis) [Entry date 05/09/94]
5/3/94	156 362	NOTICE OF INTENT to Use Evidence by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores, filed. (mis) [Entry date 05/09/94]

5/3/94	157 399	(Requested) Proposed Jury Instructions by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores, filed. (mis) [Entry date 05/09/94]
6/4/94	158 400	ORDER for govt to produce transcripts of each witness as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores (Signed by Judge George P. Kazen), entered. Parties n'fd. (mis) [Entry date 06/10/94] [Edit date 06/14/94]
6/27/94	159 424	PROPOSED SPECIAL VERDICT FORMS by USA as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores, filed. (mis) [Entry date 06/30/94]
6/30/94	160 431	ORDER denying [145-1] supplemental motion to dismiss 18 USC 666 Counts of the indictment as to Mario NMI Salinas (2), denying [144-1] motion to dismiss 18 USC 666 Counts in the indictment based on lack of federal assistancce [sic] as to Mario NMI Salinas (2), denying [142-1] motion to dismiss Section 666 counts in the indictment based on lack of Federal assistance (second motion) as to Edelmiro NMI Flores (4), denying [137-1] motion to dismiss RICO counts

		in the indictment as to Eloy NMI Zavala (3), denying [136-1] motion to dismiss 18 USC Section 666 Counts in the Indictment as to Eloy NMI Zavala (3) (Signed by Judge George P. Kazen), entered. Parties ntfd. (mis) [Entry date 07/06/94]
7/11/94	162 432	MEMORANDUM AND ORDER as to Brigido NMI Marmolejo Jr, Mario NMI Salinas denying [135-1] motion to suppress evidence (Signed by Judge George P. Kazen), entered. Parties ntfd. (sa) [Entry date 07/14/94]
7/15/94	163 433	Pre-trial conference as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Judge George P. Kazen Ct Reporter: none, filed. G Surovic f/Govt T Canales, F Enriquez, J Chapa and O Alvarez f/defts. Conference held in chambers without Ct Rptr. Facts of case discussed and well as discussion on exhibits, indictment and voir dire. (pg) [Entry date 07/21/94]
7/15/94	164 445	Second Amended MOTION by Mario NMI Salinas to dismiss based on double jeopardy, filed. (pg) [Entry date 07/21/94]
7/15/94	–	Voir dire begun as to Brigido NMI Marmolejo (1) count(s) 1, 2, 3, 4, 5-7, 8, Mario NMI Salinas (2)

		count(s) 1, 2, 3, 4, Eloy NMI Zavala (3) count(s) 2, 3, Edelmiro NMI Flores (4) count(s) 2, 3, 4, filed. (pg) [Entry date 07/21/94]
7/15/94	165 446	Jury selection as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Judge George P. Kazen Ct Reporter: A DeLeon, filed. G Surovic f/Govt T. Canales, F Enriquez, J Chapa and O Alvarez f/defts. Fourteen jurors selected and sworn – to return 7/18/94. (pg) [Entry date 07/21/94]
7/18/94	166 449	1st Day of Jury trial as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Judge George P. Kazen (Ct Reporter: Alf DeLeon; Interpreter: BV Zapata), filed. (mis) [Entry date 08/05/94]
7/18/94	183 530	MOTION by Mario NMI Salinas in limine, filed. (mis) [Entry date 08/12/94]
7/19/94	167 452	2nd Day of Jury trial as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Judge George P. Kazen (Ct Reporter: Alf DeLeon; Interpreter: BV Zapata), filed. (mis) [Entry date 08/05/94]

7/20/94	168 454	3rd Day of Jury trial as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Judge George P. Kazen (Ct Reporter: Alf DeLeon; Interpreter: BV Zapata), filed. (mis) [Entry date 08/05/94]
7/21/94	169 457	4th Day of Jury trial as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Judge George P. Kazen (Ct Reporter: Alf DeLeon; Interpreter: BV Zapata), filed. (mis) [Entry date 08/05/94]
7/22/94	170 460	5th Day of Jury trial as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Judge George P. Kazen (Ct Reporter: Alf DeLeon), filed. (mis) [Entry date 08/05/94]
7/25/94	171 463	6th Day of Jury trial as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores held before Judge George P. Kazen (Ct Reporter: Alf DeLeon) Defts 3 & 4 discharged. Deft's Mtn for Jgmt of Acquittal on all cts denied, filed. (mis) [Entry date 08/05/94]

7/26/94	172 466	7th Day of Jury trial as to Brigido NMI Marmolejo Jr, Mario NMI Salinas held before Judge George P. Kazen (Ct Reporter: Alf DeLeon), filed. (mis) [Entry date 08/05/94]
7/26/94	184 568	EDITED INDICTMENT for jury as per Cts Instructions as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, filed. (mis) [Entry date 08/12/94]
7/27/94	173 467	8th Day of Jury trial as to Brigido NMI Marmolejo Jr, Mario NMI Salinas held before Judge George P. Kazen (Ct Reporter: Alf DeLeon) Jury Verdict, filed. (mis) [Entry date 08/05/94]
7/27/94	174 513	Jury note #1 filed as to Mario NMI Salinas (mis) [Entry date 08/05/94]
7/27/94	176 517	JURY VERDICT Guilty: Mario NMI Salinas (2) count(s) 2, 3, 4, Not Guilty: Mario NMI Salinas (2) count(s) 1 Mario NMI Salinas (2) count(s) 1. Acquitted by jury after trial, filed. (mis) [Entry date 08/05/94]
7/27/94	179 518	ORDER for Disclosure of PSI as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, PSI completion by 9/1/94, Objection to PSI due 9/11/94, Final PSI due 9/23/94, entered. Parties ntfd. (mis) [Entry date 08/05/94] [Edit date 09/22/94]

8/1/94	182 526	MOTION by Mario NMI Salinas for Judgment of Acquittal, filed. (mis) [Entry date 08/05/94]
8/8/94	185 580	ORDER denying [182-1] motion for Judgment of Acquittal as to Mario NMI Salinas (2) (Signed by Judge George P. Kazen), entered. Parties ntfd. (mis) [Entry date 08/12/94]
8/11/94	186 586	RESPONSE by USA as to Mario NMI Salinas re: [182-1] motion for Judgment of Acquittal, filed. (mis) [Entry date 08/17/94]
11/7/94	190 590	RESPONSE/OBJECTION by USA to Presentence Investigation Report as to Mario NMI Salinas, filed. (mis) [Entry date 11/09/94]
11/8/94	191 614	OBJECTION by Mario NMI Salinas to Presentence Investigation Report, filed. (mis) [Entry date 11/10/94]
11/9/94	194 615	FINAL PRESENTENCE INVESTIGATION REPORT (Sealed) as to Mario NMI Salinas, filed. (mis) [Entry date 11/16/94]
11/9/94	195 616	SEALED Confidential Sentencing Recommendation regarding Mario NMI Salinas to the Court, filed and placed in vault. (mis) [Entry date 11/16/94]
11/15/94	196 628	MOTION by Mario NMI Salinas for bond pending appeal, filed. (mis) [Entry date 11/16/94]

11/21/94	197 633	RESPONSE by USA as to Mario NMI Salinas to [191-1] objection, filed. (mis) [Entry date 11/23/94]
11/23/94	200 634	Sentencing held before Judge George P. Kazen (Ct Reporter: ERO) App: Greg Surovic f/govt and Francisco Enriquez f/deft. Deft to remain out on bond pending appeal. Mario NMI Salinas (2) count(s) 2, 3, 4. Cts. 2-4: 36 months to serve; 3 yrs TSR and $5,000 fine., filed. Mario NMI Salinas terminated. (mis) [Entry date 11/29/94]
11/23/94	201 636	NOTICE OF APPEAL of Conviction & Sentence by Mario NMI Salinas (2) count(s) 2, 3, 4, filed. (mis) [Entry date 11/29/94]
11/23/94	202 637	ORDER granting [196-1] motion for bond pending appeal as to Mario NMI Salinas (2) (Signed by Judge George P. Kazen), entered. Parties ntfd. (mis) [Entry date 11/29/94]
11/28/94	203 640	MOTION by USA as to Mario NMI Salinas for order of forfeiture, filed. (mis) [Entry date 11/29/94]
11/29/94	205 647	JUDGMENT as to Mario NMI Salinas (2) count(s) 2, 3, 4 (Signed by Judge George P. Kazen), entered. Parties ntfd. (mis) [Entry date 11/30/94]

3/20/95	–	TRANSCRIPT as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores Re: [201-1] appeal, [199-1] appeal Pretrial Conference for dates of 3/15/94 before Judge Kazen, filed. (pg) [Entry date 03/22/95] [Edit date 03/22/95]
3/20/95	–	TRANSCRIPT as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores Re: [201-1] appeal, [199-1] appeal Pretrial Conference Hearing for dates of 5/3/94 before Judge Kazen, filed. (pg) [Entry date 03/22/95] [Edit date 03/22/95]
3/20/95	–	TRANSCRIPT as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores Re: [201-1] appeal, [199-1] appeal Jury Selection for dates of 7/15/94 before Judge Kazen, filed. (pg) [Entry date 03/22/95] [Edit date 03/22/95]
3/20/95	–	TRANSCRIPT as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores Re: [201-1] appeal, [199-1] appeal Trial – Vol I Hearing for dates of 7/18/94 before Judge Kazen, filed. (pg) [Entry date 03/22/95] [Edit date 03/22/95]

3/20/95	–	TRANSCRIPT as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores Re: [201-1] appeal, [199-1] appeal Trial – Vol II Hearing for dates of 7/18/94 before Judge Kazen, filed. (pg) [Entry date 03/22/95] [Edit date 03/22/95]
3/20/95	–	TRANSCRIPT as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores Re: [201-1] appeal, [199-1] appeal Trial – Vol III Hearing for dates of 7/18/94 before Judge Kazen, filed. (pg) [Entry date 03/22/95] [Edit date 03/22/95]
3/20/95	–	TRANSCRIPT as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores Re: [201-1] appeal, [199-1] appeal Trial – Vol IV Hearing for dates of 7/18/94 before Judge Kazen, filed. (pg) [Entry date 03/22/95] [Edit date 03/22/95]
3/20/95	227	TRANSCRIPT as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores Re: [201-1] appeal, [199-1] appeal Trial – Vol V Hearing for dates of 7/18/94 before Judge Kazen, filed. (pg) [Entry date 03/22/95]

3/20/95	228	TRANSCRIPT as to Brigido NMI Marmolejo Jr, Mario NMI Salinas, Eloy NMI Zavala, Edelmiro NMI Flores Re: [201-1] appeal, [199-1] appeal Trial – Vol VI Hearing for dates of 7/18/94 before Judge Kazen, filed. (pg) [Entry date 03/22/95]

GOVERNMENT EXHIBIT 43
M-94-010

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES MARSHALS SERVICE

INTERGOVERNMENTAL COOPERATIVE AGREEMENT NUMBER 4-79-84

This Agreement is entered into between the United States Marshals Service and Hidalgo County, Texas in accordance with the terms and conditions of Articles I through XI and Schedules A, B and C attached hereto.

The below individuals are authorized by law to accept and commit to this Agreement for and on the behalf of the:

UNITED STATES MARSHALS SERVICE

SIGNATURE:
Howard Safir

TYPED NAME:
Howard Safir

TITLE:
Assistant Director for Operations

ADDRESS:
One Tysons Corner Center
McLean, Virginia 22102

DATE:
5/3/84

SIGNATURE:
B.S. Baker

COUNTY:
Hidalgo, Texas

SIGNATURE:
Santos Saldana

TYPED NAME:
Honorable Santos Saldana

TITLE:
County Judge

ADDRESS:
P.O. Box 1356
Edinburg, Texas 78539

DATE:
May 29, 1984

TYPED NAME:
B.S. Baker

TITLE:
United States Marshal

ADDRESS:

DATE:
8/14/84

ARTICLE I

PURPOSE:

The purpose of this Cooperative Agreement is to establish a legal relationship between the United States Marshals Service (USMS) and the County of Hidalgo (COUNTY). This Agreement is predicated upon the Federal government's requirement for detention space and services and the local government's provision of such services. All articles and schedules of this Agreement are binding upon the execution of this Agreement by both parties.

ARTICLE II

ASSURANCES:

The Cooperative Agreement provides for Federal participation in the funding of local governmental jail construction, renovation or improvement programs. A local government receiving Federal funds is required to assure and certify that it will, as a condition of receiving the funds, comply with applicable Federal laws and regulations governing Grants and Cooperative Agreements. By acceptance of this Agreement the COUNTY so assures

and certifies it will comply with the provisions, guidelines, regulations, and laws listed in Schedule A of this Agreement.

ARTICLE III

COOPERATIVE AGREEMENT PLAN (CAP):

A. Negotiations between the COUNTY and the USMS have resulted in a formulation of a Cooperative Agreement Plan which is incorporated as Schedule B of this Agreement.

B. Requests for modifications, deletions or additions to Schedule B may be made by the recipient's submission of a formal written request to the Assistant Director for Operations, United States Marshals Service or his designee who must approve all changes in writing.

C. The recipient has verified and ensures that all project(s) specified on Schedule B meet the applicable state and local laws, standards, policies, procedures or court orders governing or established for a detention facility.

D. It is the responsibility of the recipient to plan, initiate, and oversee the completion of the project(s); to prepare quarterly progress reports and periodic requests for payments; to certify the accuracy of contractor and vendor billings; to ensure the cost efficient and timely completion of projects; and to immediately notify the U.S. Marshal in writing of any issues or problems real or

anticipated which might affect the successful completion of the project(s) within the time frame and cost ceilings established in Schedule B.

E. It is the responsibility of the U.S. Marshal or his designee to make monthly on-site inspections of the project(s) underway; to review and certify interim and final payment requests submitted by the recipient; to ensure that CAP funding ceilings are not exceeded; and to provide United States Marshals Service Headquarters with written recommendations on any proposed changes or modifications to this Agreement.

ARTICLE IV

FUNDING LEVEL:

A. The USMS will provide Federal funding in an amount not to exceed $850,000.00 for the project(s) listed on Schedule B from the support of U.S. Prisoners Appropriation for Fiscal Year 1984.

B. The COUNTY accepts responsibility for all costs associated with the project(s) which exceed the level of Federal funding provided.

C. Funds specified and approved for one project shall not be transferred to another project or be used for any other purpose unless authorized by a written modification to this Agreement issued by the Assistant Director for Operations or his designee.

ARTICLE V

SERVICE AND SPACE GUARANTEE:

A. The COUNTY agrees to accept and provide detention space and services for Twenty (20) Federal prisoners each day on a space available basis upon the request of the U.S. Marshal from the date of acceptance of this Agreement until the completion of the projects listed on Schedule B.

B. The COUNTY agrees to accept and provide detention space and services for *One Hundred (100) Federal prisoners each day upon the request* of the U.S. Marshal at the Hidalgo County Jail for a period of *Fifteen (15) years* commencing on the date of completion of all projects listed on Schedule B and the fulfillment of payments by the USMS.

C. the Intergovernmental Agreement (IGA) for the housing of Federal prisoners will remain in effect through the period specified in Article VB, and will continue thereafter until terminated in writing at the will of either party. *Per diem payments provided for in the IGA will continue to be negotiated in accordance with Federal Cost and Pricing Standards.*

ARTICLE VI

FINANCIAL PROVISIONS:

A. The USMS will obligate and reserve the total amount of funds established under this Agreement. Requests for reimbursement for work completed will be drawn up by the recipient on a Standard Form 270

(Request for Advance or Reimbursement) and submitted along with a CAP Reimbursement Detail Sheet to the U.S. Marshal for review and certification. Payment to the recipient will be made by the U.S. Marshal upon review and written authorization by the Chief, Operations Support Division. Payments may only be issued to the recipient rather than vendors or contractors.

B. The recipient certifies that all requests for payment submitted shall be supported by valid invoices which are in accordance with the projects authorized in Schedule B of this Agreement and subject to on-site inspection by the U.S. Marshal and his designee. Copies of paid invoices shall be clearly marked with the appropriate CAP project number they are charged to and maintained in CAP project files by the recipient. All such documentation shall be made available for review upon the request of the U.S. Marshal, USMS Headquarters, or a Federal audit agency.

C. The recipient certifies that no request for payment will be submitted for work, materials or services which have been previously funded from Federal funds from any other source.

D. The recipient will maintain such books, records, documents, evidence, and accepted accounting procedures and practices which will accurately reflect all costs relating to this Agreement for a period of at least three years following completion of all the projects and final payment. All such documents

will be subject to periodic on-site review as deemed necessary by the U.S. Marshal, USMS Headquarters staff, and Federal audit agencies.

ARTICLE VII

DISPUTES:

All questions of interpretation of any or all parts of this Agreement shall be first addressed and resolved by negotiation between the representative(s) of the COUNTY and the Chief, Operations Support Division. Any disputes not resolved will be referred to the Assistant Director for Operations and Chief Executive Officer of the COUNTY.

The Director, United States Marshals Service, will be the final deciding official in all disputes concerning this Agreement, unless otherwise disposed of in a court of law.

ARTICLE VIII

STOP WORK:

A. The Assistant Director for Operations or his designee may issue and the COUNTY will accept a written order to hold or Stop Work on one or more projects funded under this Agreement for a period of 30 days. Such orders will be issued pursuant to sufficient cause, such as reason to believe work is being performed outside of the terms of Schedule B or for financial improprieties found during a monitoring inspection or voucher and records review.

B. A Stop Work Order may be continued, cancelled or reissued as an order of termination.

C. The COUNTY is responsible for any costs incurred after the issuance of a Stop Work Order unless such work, material, equipment or services were purchased prior to the issuance of the Stop Work Order and delivery cannot be cancelled.

ARTICLE IX

TERMINATION:

A. This Agreement may be terminated in-full or in-part by the COUNTY at any time prior to the completion of the project listed in Schedule B provided that all Federal funds received for the project by the COUNTY are refunded in full to the USMS. All termination notices shall be made in writing by the COUNTY to the Assistant Director for Operations.

B. This Agreement may be terminated by the USMS at any time prior to the completion of project(s) listed in Schedule B. Such terminations may be the result of the failure of the recipient to start or complete a project in accordance with Schedule B or for a violation of the Agreement. All termination notices shall be made in writing by the Assistant Director for Operations to the recipient.

C. This Agreement shall not be terminated during the period specified in Article VB by

either party after the completion of all projects and the issuance of final payment by the USMS unless by mutual agreement.

ARTICLE X

BREACH OF AGREEMENT:

A. In the event detention space and services are not provided to the level guaranteed, unless as a result of fire, riot or other act of God or other emergency acceptable to the USMS, the COUNTY will reimburse the USMS for all funding provided by this Agreement, and for all costs associated with the relocation of Federal prisoners to another facility including any jail costs over and above the rate paid to the COUNTY.

B. The provision of Article XA will be exercised by the USMS only after violation(s) of the provisions for guaranteed space has been established, and negotiations between the USMS and recipient have not resulted in a mutually acceptable resolution and a written notice of Breach of Agreement has been issued by the Assistant Director for Operations.

ARTICLE XI

REPORTS:

A. *A progress report shall be submitted within ten days of the close of each quarter by the recipient to the U.S. Marshal. A progress report format is provided by Schedule C.*

B. A final CAP report shall be submitted by the recipient at the completion of all projects which reflects the date of completion, final costs, and includes a statement that the Cooperative Agreement is completed.

C. *Failure to submit quarterly progress reports may be interpreted as non-compliance with this Agreement.*

United States Department of Justice

United States Marshals Service

Intergovernmental Service Agreement

Housing of Federal Prisoners

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1. AGREEMENT NUMBER

J-D79-M-001

2. EFFECTIVE DATE

9/1/84

3. REQUISITION/PURCHASER/REQUEST NO.

0181-D79-84

4. CONTROL NO.

5. ISSUING OFFICE

UNITED STATES MARSHALS SERVICE
Operations Support Division
Program Administration Branch
1-TYSONS CORNER CENTER
MCLEAN, VIRGINIA 22102

6. GOVERNMENT ENTITY

NAME AND ADDRESS *(Street, city, county, State and ZIP code*	Hidalgo County Detention Center, P.O. Box 359 Edingburg, Texas 78539

FACILITY CODE(S)

6GV

Contact Person Juan Jose Munoz, Chief

Area Code & Telephone No. (512) 383-8114 ext. 73

7. APPROPRIATION DATA

1541020

8. ITEM NO.

(1)

(2)

9. SUPPLIES/SERVICES

This Agreement is for the housing, safekeeping and subsistence of adult male and female federal prisoners in accordance with the contents set forth herein.

This Agreement consists of the following:

(A) I-G-A Cover Page, Form #241

(B) Agreement Schedule, pages 2-5.

10. QUANTITY

ESTIMATED USMS PRISONER DAYS/YR.

36,500

11. UNIT

PDs

12. UNIT PRICE

FIXED RATE

$25.09

13. AMOUNT

ESTIMATED ANNUAL PAYMENT

$915,785

14.

AGENCY CERTIFYING

To the best of my knowledge and belief, data submitted in support of this agreement is true and correct, the document has been duly authorized by the governing body of the Department or Agency and the Department or Agency will comply with ALL PROVISIONS SET FORTH HEREIN.

15. NAME AND TITLE OF PERSON(S) AUTHORIZED TO SIGN OFFER

/s/ Brig Marmolejo — Date 9-13-84
(Signature)

Brig Marmolejo — Sheriff
Name *(Type or Print)* — Title

_____ — Date _____
(Signature)

_____ — _____
Name *(Type or Print)* — Title

16. TYPE OF USE

- ❑ Hold Over
- ■ Regular Support
- ❑ Seasonal Support
- ❑ Other

17. PRISONER TYPE TO BE INCLUDED

UNSENTENCED	SENTENCED
■ Adult Male	■ Adult Male
■ Adult Female	■ Adult Female
❑ Juvenile Male	❑ Juvenile Male
❑ Juvenile Female	❑ Juvenile Female
■ Aliens	❑ Work Release
	❑ YCA Male
	❑ YCA Female

18. LEVEL OF USE

- ❑ Minimum
- ❑ Medium
- ■ Major

19. *This Negotiated Agreement is Hereby Approved and Accepted for*

THE UNITED STATES OF AMERICA BY DIRECTION OF THE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE

BY /s/ J B Enders
(SIGNATURE OF CONTRACTING OFFICER)

20. ANTICIPATED ANNUAL USAGE

	UNSEN-TENCED	SEN-TENCED	ALIENS	TOTAL
No. of Prisoners	100	—	—	100
Prisoner Days	36,500	—	—	36,500
Guard Hours	—	—	—	—

21. NAME OF AUTHORIZING OFFICIAL
(Type or Print)

Joseph B. Enders

DATE SIGNED

August 30, 1984

PRIOR EDITIONS ARE OBSOLETE AND ARE NOT TO BE USED

UNITED STATES MARSHALS SERVICE
AGREEMENT SCHEDULE
(SUPPORT OF U.S. PRISONERS)

AGREEMENT NO.

J-D79-M-001

ARTICLE I – PURPOSE

The purpose of this Intergovernmental Service Agreement (IGA) is to establish a formal binding relationship between the U.S. Marshals Service and other federal user agencies (the government) and Hidalgo County, Texas

(The County) for the detention of persons charged with or convicted of violations of federal law or held as material witnesses (federal prisoners) at the Hidalgo County Jail (the facility).

ARTICLE II – SUPPORT AND MEDICAL SERVICES

1. The County agrees to accept and provide for the secure custody, care and safekeeping of federal prisoners in accordance with state and local laws, standards, policies, procedures, or court orders applicable to the operations of the facility.

2. The County agrees to provide federal prisoners with the same level of medical care and services provided local prisoners including the transportation and security for prisoners requiring removal from the facility for emergency medical services. All costs associated with hospital or health care services provided outside the facility will be paid directly by the government.

3. The County agrees to notify the U.S. Marshal as soon as possible of all emergency medical cases requiring removal of a prisoner from the facility and to obtain prior authorization for removal for all other medical services required.

ARTICLE III – RECEIVING AND DISCHARGE

1. The County agrees to accept as federal prisoners those persons committed by federal law enforcement officers for violations of federal laws only upon presentation by the officer of proper law enforcement credentials.

2. The County agrees to release federal prisoners only to law enforcement officers of agencies initially committing the prisoner (i.e. DEA, INS, etc.) or to a Deputy United States Marshal. Those prisoners who are remanded to custody by a U.S. Marshal may only be released to a U.S. Marshal or an agent specified by the U.S. Marshal of the Judicial District.

3. Federal prisoners may not be released from the facility or placed in the custody of state of local officials for any reason except for medical or emergency situations. Federal prisoners sought for a state or local court proceeding must be acquired through a Writ of Habeas Corpus or the Interstate Agreement of Detainers and then only with the concurrence of the District U.S. Marshal.

ARTICLE IV – PERIOD OF PERFORMANCE

This Agreement shall remain in effect for a period of Fifteen (15) years after completion of the Cooperative Agreement 4-79-84 and indefinitely thereafter until terminated in writing by either party. After the 15 year period provided for in CAP Agreement 4-79-84 is completed, if conditions of an unusual nature occur making it impractical or undesirable to continue to house prisoners, the County may suspend or restrict the use of the facility by any or all federal agencies by giving written notice to the U.S. Marshal and the affected user agency. Such notice will be provided 30 days in advance of the effective date of formal termination and at least two weeks in advance of a suspension or restriction of use unless an emergency situation requires the immediate relocation of prisoners.

ARTICLE V – ECONOMIC PRICE ADJUSTMENT

1. Payment rates shall be established on the basis of actual costs associated with the operation of the facility during a recent annual accounting period or upon an approved annual operating budget.

2. The rate may be renegotiated not more than once per year, after the Agreement has been effective for twelve months.

3. The County may initiate a request for a rate increase or decrease by notifying the U.S. Marshal in writing at least 60 days prior to the desired effective date of the adjustment. Each rate adjustment submitted must include a completed Basic Data Sheet and Certification Form available from the U.S. Marshal. The County agrees to provide additional cost information to support a rate increase and to permit an audit of accounting records upon request of the Marshals Service.

4. Criteria used to evaluate the increase or decrease in the per-capita rate shall be those specified in the federal cost standards for contracts and grants with State and local governments issued by the Office of Management and Budget.

5. The effective date of the rate modification will be negotiated and specified on the IGA Modification form approved and signed by a Marshals Service Contracting Officer. The effective date will be established on the first day of a month for accounting purposes. Payments at the modified rate will be paid upon the return of the signed modification by the authorized local official to the U.S. Marshal.

6. Unless other justifiable reasons can be documented by the County, per diem rate increases shall not exceed the National Inflation rate as established by the U.S. Department of Commerce.

ARTICLE VI – FINANCIAL PROVISIONS

1. The billing addresses of the agencies using this facility are as follows:

United States Marshal
515 Rusk Avenue
Houston, Texas 77002

Phone: (713) 229-2800

Immigration &
Naturalization Service
Asst. Regional
Commissioner, PMP
311 North Stemons
Freeway
Dallas, Texas 75207

Phone: (214) 729-6089

Bureau of Prisons
Community Programs Manager
2320 La Branch Street
Houston, Texas 77004

Phone: (713) 750-1755

2. The government shall reimburse the County at the fixed rates identified on page one of the agreement. The rates cover one person per prisoner day. The government may not be billed for two days when a prisoner is admitted one evening and removed the following morning. The County may bill for the day of arrival but not for the day of departure.

3. The Prompt Payment Act, Public Law 97-177 (96 Stat. 85, 31 USC 1801) is applicable to payments under this agreement and requires the payment to the County of interest on overdue payments. Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and the Office of Management and Budget Circular A-25.

4. Payment under this agreement will be due on the thirtieth (30th) calendar day after receipt of a proper invoice, in the office designated to receive the invoice. The date of the check issued in payment shall be considered to be the date payment is made.

5. The original invoice shall be submitted to the government office that has been designated to receive invoices, as stated in paragraph 1. To constitute a proper invoice, the invoice must include the name, title, phone number and complete mailing address of the official of the designated payment office. In addition, it shall list each federal prisoner, the specific dates of confinement for each, the total days to be reimbursed, the agreed upon rate per day and the total amount billed (total days multiplied by the rate per day).

ARTICLE VII – GOVERNMENT FURNISHED PROPERTY

1. It is the intention of the Marshals Service to furnish excess federal property to local governments for the specific purpose of improving jail conditions and services. Accountable excess property, such as furniture and equipment, remains titled to the Marshals Service and shall be returned to the custody of the Marshals Service upon termination of the agreement.

2. The County agrees to inventory, maintain, repair, assume liability for and manage all federally provided accountable property and to immediately report the loss or destruction of accountable property to the U.S. Marshal. Annual inventory reports will be provided by the County to the U.S. Marshal.

3. The suspension of use or restriction of bed space made available to the Marshals Service are agreed to be grounds for the recall and return of any or all government furnished property.

4. The dollar value of property provided each year will not exceed the annual dollar payment made by the Marshals Service for prisoner support.

ARTICLE VIII – MODIFICATIONS/DISPUTES

1. Either party may initiate a request for modification to this agreement in writing. All modifications negotiated will be written and approved by the U.S. Marshals Service contracting officer and submitted to the County on form USM 241a for approval.

2. Disputes, questions or concerns pertaining to this agreement other than CAP space guarantees will be resolved between the U.S. Marshal and the appropriate County official. Unresolved issues are to be directed, in writing, to the Chief, Operations Support Division, U.S. Marshals Service Headquarters.

ARTICLE IX – INSPECTION AND TECHNICAL ASSISTANCE

1. The County agrees to allow periodic inspections of the facility by U.S. Marshals Service Inspectors. Findings of the inspection will be shared with the facility administrator in order to promote improvements to facility operations, conditions of confinement and levels of services.

2. The Marshals Service will endeavor to provide or acquire technical training and management assistance from other federal, state or local agencies or national organizations upon the request of the facility administrator.

ARTICLE X – SPECIAL PROVISIONS

Upon the execution of Cooperative Agreement Number 4-79-84 the County agrees to provide 20 detention spaces for Federal prisoners on a daily basis and upon the completion of the project, the County agrees to provide 100 spaces for federal user agencies each day for a period of 15 years.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION

UNITED STATES OF AMERICA,	*	
PLAINTIFF,	*	**CRIMINAL NO. M-94-10**
v.	*	
BRIGIDO MARMOLEJO, JR., MARIO SALINAS, ELOY ZAVALA, and EDELMIRO FLORES,	*	
DEFENDANTS.	*	

INDICTMENT

(Filed Jan. 18, 1994)

THE GRAND JURY CHARGES:

Count One

1. At all times material to this indictment, the Hidalgo County Sheriff's Office, a law enforcement agency for the State of Texas, constituted an enterprise as defined in Title 18, United States Code, Section 1961(4).

2. At all times material to this indictment, the enterprise was responsible for enforcing the laws of the State of Texas within the County of Hidalgo, Texas, providing law enforcement and citizen protection for the citizens of Hidalgo County, Texas, and was also charged with maintaining and securing prisoners in the Hidalgo County Jail who were being held at the order of State and federal courts sitting in Hidalgo County, Texas.

3. At all times material to this indictment, the defendant BRIGIDO MARMOLEJO, JR., was the elected Sheriff of Hidalgo County, Texas, and the executive officer charged with managing and directing the affairs and operation of the Hidalgo County Sheriff's Office which also included the operation of the Hidalgo County Jail.

4. At all times material to this indictment, the defendant MARIO SALINAS was the Chief Jailer of the Hidalgo County Sheriff's Office, charged with maintaining and securing prisoners being held in the Hidalgo County Jail and with the day to day management of jail activities.

5. Texas Penal Code, Section 36.02(a) makes it a second degree felony under the laws of the State of Texas for any person to solicit, accept, or agree to accept any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.

6. From in or about July of 1991 to in or about August of 1993, in the Southern District of Texas and elsewhere, the defendants

BRIGIDO MARMOLEJO, JR., and
MARIO SALINAS

being persons employed by and associated with the enterprise described in paragraph 1, above, which was engaged in and the activities of which affected interstate and foreign commerce, unlawfully, knowingly, and willfully did conduct and participate, directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity as specified in paragraph 7, below.

7. The pattern of racketeering activity committed by the defendants consisted of the following acts involving bribery:

RACKETEERING ACT # 1

In or about September of 1991, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendants BRIGIDO MARMOLEJO, JR., and ELOY ZAVALA solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Adelberto Rodriguez, a benefit, to wit: a trailer and campaign sign with a value of approximately $5,000.00, as consideration for BRIGIDO MARMOLEJO, JR.'s and ELOY ZAVALA's decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 2

On or about October 16, 1991, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately

$6,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 3

On or about November 27, 1991, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $6,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 4

On or about December 28, 1991, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the

Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 5

On or about January 2, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant MARIO SALINAS solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: two RADO brand watches with a value of approximately $1,680.00 in United States Currency, as consideration for MARIO SALINAS's decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 6

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 6:

a. On or about January 2, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: two RADO brand watches with a value of approximately $4,600.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about January 4, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County. Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow

Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

c. On or about January 9, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

d. On or about January 11, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and

friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

e. On or about January 21, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

f. On or about January 24, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 7

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 7:

a. On or about February 2, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about February 5, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detailed in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $6,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at

the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

c. On or about February 8, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

d. On or about February 16, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and

friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

e. On or about February 24, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $6,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 8

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 8:

a. On or about March 3, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as

consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about March 12, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

c. On or about March 14, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow

Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

d. On or about March 18, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $6,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

e. On or about March 21, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and

friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

f. On or about March 27, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 9

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 9:

a. On or about April 1, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for

BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about April 4, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

c. On or about April 8, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo

Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

d. On or about April 11, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 10

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 10:

a. On or about November 8, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County

Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about November 8, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: a white 1989 Pontiac Firebird Trans-Am GTA, VIN: 1G5FW2175KL243635, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

c. On or about November 9, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $5,000.00 in United States Currency, as

consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

d. On or about November 15, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

e. On or about November 21, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow

Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

f. On or about November 24, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

g. On or about November 29, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and

friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 11

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 11:

a. On or about December 6, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about December 9, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as

consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

c. On or about December 13, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at.the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

d. On or about December 20, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow

Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

e. On or about December 23, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $3,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

f. On or about December 26, 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and

friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 12

In or about December of 1992, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant MARIO SALINAS solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: a red 1984 Chevrolet Silverado pick-up truck, as consideration for MARIO SALINAS's decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his. family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 13

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 13:

a. On or about January 2, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County

Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about January 10, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

c. On or about January 17, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as

consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

d. On or about January 24, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

e. On or about January 31, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo

Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 14

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 14:

a. On or about February 7, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about February 11, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County

Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $6,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

c. On or about February 14, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

d. On or about February 20, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as

consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

e. On or about February 27, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 15

On or about February of 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant MARIO SALINAS solicited, accepted, and agreed to accept from Raul Valladares del Angel, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Salazar, a benefit, to wit: approximately $1,500.00 in United States

Currency, as consideration for MARIO SALINAS's, decision and exercise of discretion as a public servant to allow Raul Valladares del Angel to have contact visits at the Hidalgo County Jail with his family members and other visitors. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 16

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 16:

a. On or about March 7, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about March 10, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody

of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Jose Garcia, a benefit, to wit: a check in the amount of $3,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

c. On or about March 14, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

d. On or about March 18, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County

Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

e. On or about March 20, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $11,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

f. On or about March 21, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as

consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

g. On or about March 28, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 17

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 17:

a. On or about April 3, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the

Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $1,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about April 4, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

c. On or about April 6, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and

Jose Garcia, a benefit, to wit: a check in the amount of $3,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

d. On or about April 11, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

e. On or about April 15, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Hidalgo County Sheriff's Office by order of the federal court and being detained in the Hidalgo County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $2,000.00 in United States Currency, as

consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Hidalgo County Jail with his family members and friends. This conduct is in violation of Texas Penal Code, Section 36.02(a).

RACKETEERING ACT # 18

The below named defendant committed the following acts of racketeering, any of which alone constitutes the commission of Racketeering Act No. 18:

a. On or about July 15, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Starr County Sheriff's Office by order of the federal court and being detained in the Starr County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $3,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to use his influence with the Sheriff of Starr County, Texas, to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Starr County Jail with his family members and for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to provide favorable conditions and special privileges to another federal prisoner, Michael Haymaker, should he be transferred to the Hidalgo County Jail. This conduct is in violation of Texas Penal Code, Section 36.02(a).

b. On or about July 19, 1993, in Hidalgo County, Texas, and within the jurisdiction of this Court, Defendant BRIGIDO MARMOLEJO, JR., solicited, accepted, and agreed to accept from Homero Heraldo Beltran-Aguirre, a person then being held in the custody of the Starr County Sheriff's Office by order of the federal court and being detained in the Starr County Jail, and Juan Antonio Guardado, a benefit, to wit: approximately $7,000.00 in United States Currency, as consideration for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to use his influence with the Sheriff of Starr County, Texas, to allow Homero Heraldo Beltran-Aguirre to have contact visits at the Starr County Jail with his family members and for BRIGIDO MARMOLEJO, JR.'s, decision and exercise of discretion as a public servant to provide favorable conditions and special privileges to another federal prisoner, Michael Haymaker, should he be transferred to the Hidalgo County Jail. This conduct is in violation of Texas Penal Code, Section 36.02(a).

All in violation of Title 18, United States Code, Section 1962(c).

COUNT TWO

1. The allegations contained in paragraphs one through five of Count One are realleged in this count and are incorporated by reference as if fully set forth herein.

2. At all times material to this indictment, the defendant ELOY ZAVALA was a chief deputy in the Hidalgo County Sheriff's Office and was charged with

managing and supervising the employees of the Hidalgo County Sheriff's Office.

3. At all times material to this indictment, the defendant EDELMIRO FLORES was a Jailer of the Hidalgo County Sheriff's Office, charged with maintaining and securing prisoners being held in the Hidalgo County Jail.

4. From in or about July of 1991 to in or about August of 1993, in the Southern District of Texas and elsewhere, the defendants

BRIGIDO MARMOLEJO, JR.,
MARIO SALINAS,
ELOY ZAVALA, and
EDELMIRO FLORES

being persons employed by and associated with the enterprise described in paragraph 1 of Count One, which was engaged in and the activities of which affected interstate and foreign commerce, unlawfully, knowingly, and willfully did combine, conspire, confederate, and agree with each other, and with persons known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity.

5. It was further part of the conspiracy that each defendant agreed that two or more acts of racketeering activity, as specified in paragraph 7 of Count One, which are realleged and incorporated by reference herein, would be committed in the conduct of the affairs of the enterprise.

OVERT ACTS

In furtherance of the conspiracy and in order to effect the object thereof, the defendants and their co-conspirators committed and caused to be committed the following acts, among others:

1. In September of 1991, in Hidalgo County, Texas, Defendant ELOY ZAVALA accepted from Homero Heraldo Beltran-Aguirre and Adelberto Rodriguez, approximately ten pounds of dried meat (carne seca).

2. In September of 1991, in Hidalgo County, Texas, Defendant MARIO SALINAS accepted from Homero Heraldo Beltran-Aguirre and Adelberto Rodriguez, approximately ten pounds of dried meat (carne seca).

3. In September of 1991, in Hidalgo County, Texas, Defendant EDELMIRO FLORES accepted from Homero Heraldo Beltran-Aguirre and Adelberto Rodriguez, approximately ten pounds of dried meat and $400.00 in United States Currency.

4. On or about January 28, 1992, in Hidalgo County, Texas, Defendant MARIO SALINAS accepted from Homero Heraldo Beltran-Aguirre and Juan Antonio Guardado, approximately two kilograms of dried meat (carne seca).

5. On or about January 28, 1992, in Hidalgo County, Texas, Defendant BRIGIDO MARMOLEJO, JR., accepted from Homero Heraldo Beltran-Aguirre and Juan Antonio Guardado, approximately two kilograms of dried meat (carne seca).

6. On or about October 22, 1992, in Hidalgo County, Texas, Defendant BRIGIDO MARMOLEJO, JR., accepted

from Homero Heraldo Beltran-Aguirre and Juan Antonio Guardado, a cabrito and dried meat (carne seca).

7. On or about February of 1993, in Hidalgo County, Texas, Defendant EDELMIRO FLORES accepted from Raul Valladares del Angel and Juan Antonio Salazar approximately $500.00 in United States Currency.

8. On or about June 30, 1993, BRIGIDO MARMOLEJO, JR., traveled from Edinburg, Hidalgo County, Texas, to General Bravo, Nuevo Leon, Mexico, and met with Juan Antonio Guardado to discuss the payment of $10,000.00 in United States Currency.

All in violation of Title 18, United States Code, Section 1962(d).

RICO FORFEITURE ALLEGATION

1. The allegations contained in Counts One and Two of this indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 1963.

2. The defendant BRIGIDO MARMOLEJO, JR., has acquired and maintained interests through the aforesaid racketeering activity, in violation of Title 18, United States Code, Section 1962, which interests are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1). The interests include, but are not limited to the following:

> $211,000.00 in U.S. currency in that such sum in the aggregate represents the proceeds the said defendant obtained directly and indirectly from

the racketeering activity as set forth in Counts One and Two of this indictment.

3. The defendant BRIGIDO MARMOLEJO, JR., has property constituting, and derived from, proceeds obtained, directly and indirectly, from the aforesaid racketeering activity in violation of Title 18, United States Code, Section 1962, which property is subject to forfeiture to the United States of America, pursuant to Title 18, United States Code, Section 1963(a)(3). The property includes, but is not limited to the following:

> $211,000.00 in U.S. currency in that such sum in the aggregate represents the proceeds the said defendant obtained directly and indirectly from the racketeering activity as set forth in Counts One and Two of this indictment.

4. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendant –

a. Cannot be located upon the exercise of due diligence;

b. Has been transferred or sold to, or deposited with, a third person;

c. Has been placed beyond the jurisdiction of the Court;

d. Has been substantially diminished in value; or

e. Has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 1963(m), to seek forfeiture of any other property of said defendant up to the value of

any property described above including, but not limited to, the following:

> The El Cibolo Ranch, being a 125.7 acre tract of land situated in Share One (1) of Tract One Hundred Fifty Eight (158), San Salvador del Tule Grant, Hidalgo County, Texas, described by metes and bounds in the warranty deed to the Veterans Land Board dated December 21, 1971, recorded in Volume 1310, pages 16-18, Deed Records of said County, Texas; and also further described in that Contract of Sale to said Grantee dated February 2, 1972, recorded in Volume 1310, pages 19-23, Deed Records of Hidalgo County, Texas;
>
> 21.40 acres of land, more or less, situated in Hidalgo County, Texas, and being a part of Tract 154, San Salvador del Tule Grant Partition in Cause No. 422 in the District Court of Hidalgo County, Texas, said 21.40 acres of land being further described by metes and bounds in a Warranty Deed dated October 24, 1986, recorded in Volume 2370, pages 904-906, Deed Records of Hidalgo County, Texas;
>
> The property at 1316 East University Drive, Edinburg, Texas, being further described as all of Lots 4, 5, and 6, Block 3, Grove Park Addition, an addition to the City of Edinburg, Hidalgo County, Texas, according to the map recorded in Volume 7, page 49, Map records of Hidalgo County, Texas;
>
> The property at 1705 East University Drive, Edinburg, Texas, being further described as the east one-half of Lot 15 out of the Colonia Nueva Subdivision, City of Edinburg, Hidalgo County, Texas, as per map or plat thereof recorded in

Volume 20, page 67, Map Records of Hidalgo County, Texas;

The property at 2021 East University Drive, Edinburg, Texas, being further described as a 0.53 acre of land out of Lot 8, Section 269, Texas-Mexican Railway Company Survey of Lands in Hidalgo County, Texas, as per map or plat thereof recorded in Volume 24, pages 168-171, Deed Records of Hidalgo County, Texas, and also being a portion of Lot 9, Sunrise Estates Subdivision Phase I, as per map or plat thereof recorded in Volume 24, page 106, Map Records of Hidalgo County, Texas, more particularly described in the Warranty Deed dated August 3, 1989, recorded in Volume 2867, page 754, Deed records of Hidalgo County, Texas;

The property at 813 North 5th Street, Edinburg, Texas, being further described as Lot Seventeen (17), University North Subdivision Unit No. 1, an addition to the City of Edinburg, Hidalgo County, Texas, as per map or plat of record in Volume 18, page 41, Map Records of Hidalgo County, Texas;

The property at 306 South 34th Street, Edinburg, Texas, being further described as all of Lot Three (3), Block Two (2), Vela Subdivision, an addition to the City of Edinburg, Hidalgo County, Texas, according to the map or plat thereof recorded at Volume 1227, page 620, Map Records of Hidalgo County, Texas;

A 1.5 acre tract of land out of the Southeast corner of Lot 4, Block 1, A.J. McColl Subdivision, Hidalgo County, Texas, being more fully described by metes and bounds in the Warranty

Deed dated January 26, 1988, recorded in Volume 2553, pages 78-80, Deed Records of Hidalgo County, Texas;

All of Tracts Fifty-Six (56), Fifty-Seven (57) and Fifty-Eight (58) in the Los Ejidos de Reynosa Viejo Grant, Hidalgo County, Texas, as per map or plat thereof on record in Volume 7, pages 5-8, Map Records of Hidalgo County, Texas;

The property at 616 East 4th Street, Elsa, Texas, being further described as Lot Ten (10), ACCEDC-Elsa Project, an addition to the City of Elsa, Hidalgo County, Texas, according to the map or plat thereof on record in Volume 19, page 59, Map Records of Hidalgo County, Texas;

All of Lots One (1) and Two (2), Block Twelve (12) in the Town of Faysville, Hidalgo County, Texas, as per map or plat thereof recorded in Volume 3, page 20, Map Records of Hidalgo County, Texas;

All of Lots Twenty-Six (26) and Twenty-Seven (27), Block Eleven (11) in the Town of Faysville, Hidalgo County, Texas, as per map or plat thereof recorded in Volume 3, page 20, Map Records of Hidalgo County, Texas;

All of Lots Twenty-Four (24) and Twenty-Five (25), Block Eleven (11) in the Town of Faysville, Hidalgo County, Texas, as per map or plat thereof recorded in Volume 3, page 20, Map Records of Hidalgo County, Texas;

The account of BRIGIDO MARMOLEJO, JR., account number 1220220486 at the First National Bank of Edinburg, Texas;

The account of BRIGIDO MARMOLEJO, JR., account number 1136488 at the First National Bank of Edinburg, Texas;

All pursuant to Title 18, United States Code, Section 1963.

COUNT THREE

1. The allegations contained in paragraphs one through five of Count One and paragraphs two and three of Count Two are realleged in this count and are incorporated by reference as if fully set forth herein.

2. At all times material to this indictment the Hidalgo County Sheriff's Office was an agency of the local government of Hidalgo County, Texas, that received federal assistance in excess of $10,000 during the one year period beginning June 1, 1991, and ending June 1, 1992.

3. Between October 1, 1991 and April 14, 1992, in the Southern District of Texas and within the jurisdiction of this Court, Defendants

BRIGIDO MARMOLEJO, JR.,
MARIO SALINAS,
ELOY ZAVALA, and
EDELMIRO FLORES

did knowingly and corruptly solicit, demand, accept, and agree to accept something of value from Homero Heraldo Beltran-Aguirre intending to be influenced or rewarded in connection with a business, transaction, or series of transactions of the Hidalgo County Sheriff's Office involving something of value of $5,000 or more.

All in violation of Title 18, United States Code, Section 666(a)(1)(B) and Title 18 United States Code, Section 2.

COUNT FOUR

1. The allegations contained in paragraphs one through five of Count One and paragraphs two and three of Count Two are realleged in this count and are incorporated by reference as if fully set forth herein.

2. At all times material to this indictment the Hidalgo County Sheriff's Office was an agency of the local government of Hidalgo County, Texas, that received federal assistance in excess of $10,000 during the one year period beginning September 1, 1992, and ending September 1, 1993.

3. Between October 1, 1992 and July 20, 1993, in the Southern District of Texas and within the jurisdiction of this Court, Defendants

BRIGIDO MARMOLEJO, JR.,
MARIO SALINAS, and
EDELMIRO FLORES

did knowingly and corruptly solicit, demand, accept, and agree to accept something of value from Homero Heraldo Beltran-Aguirre intending to be influenced or rewarded in connection with a business, transaction, or series of transactions of the Hidalgo County Sheriff's Office involving something of value of $5,000 or more.

All in violation of Title 18, United States Code, Section 666(a)(1)(B) and Title 18 United States Code, Section 2.

COUNT FIVE

In or about between March of 1993 and April of 1993, in the Southern District of Texas and elsewhere, and within the jurisdiction of the Court, the defendant

BRIGIDO MARMOLEJO, JR.

did aid, abet, and assist another to knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, to wit, the sale of real property constituting a portion of Lot 13, Block 47, Alamo Land & Sugar Company Division, Alamo, Hidalgo County, Texas, which involved the proceeds of a specified unlawful activity, that is the illegal manufacture, importation, sale, and distribution of a controlled substance, knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of said specified unlawful activity and that while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is the real property described above, represented the proceeds of some form of unlawful activity.

All in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

COUNT SIX

On or about March 10, 1993, in the Southern District of Texas and elsewhere, and within the jurisdiction of the Court, the defendant

BRIGIDO MARMOLEJO, JR.

did knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, to wit, depositing check number 2041 drawn on the account of G & R Produce at the McAllen National Bank, into **BRIGIDO MARMOLEJO, JR.'s** personal account, account number 114-8621, at the First National Bank of Edinburg, Texas, which involved the proceeds of a specified unlawful activity, that is bribery a second degree felony under the laws of the State of Texas, with the intent to promote the carrying on of a specified unlawful activity and that, while conducting and attempting to conduct such financial transaction, the defendant knew that the property involved in the financial transaction, that is check number 2041 drawn on the account of G & R Produce at the McAllen National Bank, represented the proceeds of some form of unlawful activity.

All in violation of Title 18, United States Code, Section 1956(a)(1)(A)(i).

COUNT SEVEN

On or about April 6, 1993, in the Southern District of Texas and elsewhere, and within the jurisdiction of the Court, the defendant

BRIGIDO MARMOLEJO, JR.

did knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, to wit, cashing of check number 2139 drawn on the account of G & R Produce at the McAllen National Bank, which involved the proceeds of a specified unlawful

activity, that is bribery, a second degree felony under the laws of the State of Texas, with the intent to promote the carrying on of a specified unlawful activity and that, while conducting and attempting to conduct such financial transaction, the defendant knew that the property involved in the financial transaction, that is check number 2139 drawn on the account of G & R Produce at the McAllen National Bank, represented the proceeds of some form of unlawful activity.

All in violation of Title 18, United States Code, Section 1956(a)(1)(A)(i).

COUNT EIGHT

1. The laws of the State of Texas, specifically Texas Penal Code, Section 36.02(a), provide that receiving a bribe is a felony violation of the laws of the State of Texas.

2. On or about June 30, 1993, in the Southern District of Texas and elsewhere, and within the jurisdiction of the Court, the defendant

BRIGIDO MARMOLEJO, JR.

did travel in interstate commerce from Edinburg, Hidalgo County, Texas, United States of America, to General Bravo, Nuevo Leon, Mexico, with the intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment, and carrying on of an unlawful activity, said unlawful activity being bribery in violation of the laws of the State of Texas, Texas Penal Code, Section 36.02(a), and thereafter the defendant did perform and attempt to perform or attempt to perform

acts to promote, manage, establish, carry on and facilitate the promotion, management, establishment, and carrying on of said unlawful activity.

All in violation of Title 18, United States Code, Section 1952(a)(3).

A TRUE BILL

/s/ Illegible
GRAND JURY FOREMAN

GAYNELLE GRIFFIN JONES
UNITED STATES ATTORNEY

By: /s/ Gregory J. Surovic
Gregory J. Surovic
Assistant United States
Attorney

[p. 1580] • • •

ME IF I'M WRONG, IS THAT AT THAT POINT, YOUR THEORY IS THAT YOU REALLY DID NOTHING. YOU OFFERED NOTHING AND DID NOTHING AND HAD NO INTENTION OF DOING IT AND THAT THERE WAS NEVER EVEN ANY IDEA OF A QUID PRO QUO.

MR. CANALES: THAT'S FINE.

THE COURT: IT WAS SIMPLY A LOAN AFTER THE FACT. AND, CONVERSELY, THE GOVERNMENT'S THEORY IS THAT IT WAS IN RETURN FOR CALLING THE SHERIFF OF STARR COUNTY AND ALSO MAYBE DOING SOMETHING FOR HAMACKER, OR HAYMAKER, OR WHATEVER HIS NAME IS.

MR. CANALES: THAT'S FINE. THAT'S THE GOVERNMENT'S THEORY.

THE COURT: AND SO THAT'S THE BATTLE LINE ON THAT ONE.

MR. CANALES: THAT'S RIGHT.

THE COURT: AND THE OTHER ONES WOULD ALL BE NO MONEY PAID AT ALL. OR IN THE CASE OF AT LEAST THE WATCHES AND THE CAR AND SO FORTH, YES, BUT NO QUID PRO QUO.

MR. CANALES: THAT'S RIGHT. AND THAT, YOU KNOW, WE'RE NOT BEING CHARGED WITH RECEIVING GIFTS. I MEAN, THAT'S NOT –

THE COURT: WELL, BECAUSE IT WOULDN'T FIT THE . . . IT WOULD SUFFICE ANYWAY.

MR. CANALES: THAT'S RIGHT.

THE COURT: NOW, LET ME JUST SHARE WITH YOU ABOUT [p. 1581] COUNT TWO. I DON'T KNOW WHAT . . . I REALLY HAVEN'T HAD TIME . . . AND YOU'RE RIGHT, THE CASE HAS KIND OF MOVED FAST. I HAVEN'T HAD TIME TO TRY TO FIGURE OUT WHAT THE PROBLEM IS IN THE OLD FIFTH CIRCUIT CASES, BUT I DO WANT TO READ . . . I UNDERSTAND . . . AND MAYBE YOU ALL CAN READ IT TOO. BUT I UNDERSTAND THERE'S SOME ELEVENTH – RECENTLY ELEVENTH CIRCUIT CASE, AND I THINK IT'S IN YOUR LITERATURE, THAT TRIES TO SHOW HOW THE FIFTH CIRCUIT CASE WOULDN'T EVEN BE THAT LAW TODAY AND THAT THE LAW WOULD CLEARLY BE SOMETHING ELSE, BUT LET ME TELL YOU, BOTH SIDES, AND I GUESS TO MR. SUROVIC, HERE'S WHAT I THINK THE LAW OUGHT TO BE AND HERE'S PROBABLY THE ONLY WAY I'M WILLING TO SUBMIT IT, AND I'LL LET YOU DECIDE WHETHER YOU EVEN WANT IT OR NOT.

IT SEEMS TO ME COUNT TWO IS ABSOLUTELY REDUNDANT AS TO MARMOLEJO. I MEAN, BY THE TIME THE JURY HAS GONE DOWN SIXTEEN OR SEVENTEEN PREDICATE ACTS, THAT HE DID OR DID NOT COMMIT THEM, IT'S SORT OF SILLY TO START ALL OVER AGAIN AND SAY, WELL, DID HE DO IT IN CONSPIRACY WITH SALINAS. I MEAN, WHO CARES. THE ONLY VALUE OF COUNT TWO IS WHETHER YOU THINK THAT IT DOES SOMETHING FOR YOU EXTRA WITH SALINAS.

NOW, I'LL STOP RIGHT THERE AND I WOULD SAY THAT, OF COURSE, YOU'VE GOT TWO SHOTS AT HIM ON 666 AND YOU'VE ALSO GOT A COUPLE OF PREDICATE ACTS ON COUNT NO. 1, BUT IF YOU THINK YOU NEED PARAGRAPH TWO . . . I MEAN, COUNT TWO, THEN IT SEEMS TO ME THE FOLLOWING. I CAN'T CONCEIVE OF A [p. 1582] NOTION THAT A PERSON . . . THAT THE ONLY WAY YOU CAN CONSPIRE TO VIOLATE RICO IS TO REACH AN EXACT MEETING OF THE MINDS TO COMMIT TWO PRECISE, IDENTIFIABLE, DATABLE PREDICATE ACTS. 1 MEAN, IT JUST SEEMS TO ME THAT'S WEIRD.

SO, THEREFORE . . . WELL, IN THE FIRST PLACE, I'M NOT SURE THERE'D REALLY BE EVIDENCE TO SUPPORT THE THEORY THAT WAY BECAUSE I CAN'T PINPOINT EVIDENCE . . . WELL, LET ME COME AT IT THIS WAY. THE REASON I'VE LEFT COUNT TWO THERE IS THAT IT SEEMS TO ME WHAT YOU'VE GOT, WITH THE GOVERNMENT'S . . . I MEAN, GIVING CREDENCE TO ALL THE GOVERNMENT'S EVIDENCE, WHAT YOU'VE GOT IS A MAN WHO'S THE CHIEF DEPUTY, WHO DOES GET WATCHES, WHO, AT LEAST ARGUABLY, GETS A CAR, WHO, ACCORDING TO THE GOVERNMENT'S TESTIMONY, IS SORT OF THE SURROGATE TWO OR THREE TIMES, BUT WE DON'T KNOW WHICH TIMES, AND, THEREFORE, BECAUSE OF ALL OF THAT . . . AND IN THE EARLY STAGES, GOT SOME CARNE ASADA AND WHATNOT, ALTHOUGH I THINK THAT'S . . . I DIDN'T THINK THAT WAS ENOUGH TO SUSTAIN AN ENTIRE CASE AGAINST FLORES AND ZAVALA, BUT IT IS THERE FOR THIS FELLOW.

SO THAT IF YOU TAKE ALL OF THAT TOGETHER, IT WOULD SEEM TO ME, IN THE GENERAL SENSE THAT I'VE ALWAYS UNDERSTOOD CONSPIRACY LAW, ONE COULD SAY THAT HE KNEW THAT SHERIFF MARMOLEJO HAD AN ONGOING PLAN OF DOING FAVORS FOR THIS GUY IN RETURN FOR MONEY AND THAT, THEREFORE, HE WILLFULLY . . . HE KNEW ABOUT MARMOLEJO DOING THIS AT LEAST A COUPLE OF TIMES AND WILLFULLY AND DELIBERATELY JOINED IN ON THAT.

[p. 1583] NOW, THAT MAY OR MAY NOT BE FIFTH CIRCUIT LAW, BUT I'D BE WILLING TO SUBMIT IT ON THAT BASIS. BUT IT SEEMS TO ME IF I SUBMIT IT ON THAT BASIS, IT JUST HAS TO BE A "YES" OR "NO" ANSWER. I CAN'T, FOR THE LIFE OF ME, IMAGINE THEN HAVING EIGHTEEN ANSWERS AND SAYING, WELL, NOW, WHICH ONE DO YOU THINK HE WILLFULLY JOINED IN ON. BECAUSE THEN, I DON'T SEE . . . IT SEEMS TO ME IT DOESN'T MAKE ANY SENSE ANYMORE. IT DOESN'T MAKE ANY MORE SENSE THAN GOING DOWN ON COUNT ONE, NUMBER ONE, AND, NUMBER TWO, I DON'T KNOW, IN GOOD CONSCIENCE, WHAT THE JURY WOULD DO WITH THAT.

I MEAN, I DON'T KNOW WHAT COUNTS, MYSELF, HE WILLFULLY JOINED IN. ALL I COULD HONESTLY SAY IS . . . IF I WERE A JUROR AND WANTED TO BELIEVE THE GOVERNMENT'S TESTIMONY, WHAT I COULD HONESTLY SAY IS THAT HE STOOD IN FOR HIM SEVERAL TIMES, HE GOT WATCHES, HE GOT A TRUCK, AND HE'S GENERALLY

LIKE A [sic] ALTER EGO, ERGO, HE KNOWINGLY PARTICIPATED IN A GENERAL CONSPIRACY TO DO RICO. BUT IF YOU ASK ME, WELL, WHICH PREDICATE ACT, I MEAN, I DON'T SEE HOW I COULD IDENTIFY HIM. SO THAT I DON'T SEE HOW I CAN SUBMIT IT THAT WAY.

NOW, I DON'T KNOW IF YOU WANT TO . . . AND MAYBE THAT'S PUSHING THE ENVELOPE A LITTLE BIT ON WHAT FIFTH CIRCUIT LAW IS. NOW, THAT SEEMS TO BE THE LAW IN OTHER CIRCUITS, AND I THINK THAT'S PROBABLY WHAT THE LAW OUGHT TO BE, BUT I GATHER THE FIFTH CIRCUIT LAW IS A LITTLE BIT OF FLUX AND SO . . . BUT I CAN'T SUBMIT IT THIS OTHER WAY. I MEAN, IT [p. 1584] SEEMS TO ME, AS YOUR MANUAL SAYS, IN THE FIRST PLACE, IT WOULD BE HOPELESSLY CONFUSING TO THE JURY.

MR. SUROVIC: YES, SIR.

THE COURT: FOR ME TO SAY, NOW, YOU'VE GONE THROUGH ALL THESE PREDICATE ACTS, NOW WE'RE GOING TO GO THROUGH THEM ALL OVER AGAIN AND YOU TELL ME WHICH TWO, PRECISELY, THAT MARIO SALINAS JOINED IN ON. YOU KNOW, I DON'T SEE HOW THEY CAN DO THAT.

MR. SUROVIC: NO. I AGREE WITH YOU, YOUR HONOR. AS PART OF THE DEBRIEFING I GAVE YOU THIS MORNING, I ALSO INCLUDED SOME SUGGESTED AMENDED SPECIAL VERDICT FORMS.

THE COURT: WELL, HOW DO YOU PROPOSE TO DO IT NOW?

MR. SUROVIC: YOUR HONOR, MY PROPOSAL IS THAT ON BOTH, MR. MARMOLEJO AND MR. MARIO SALINAS, THAT WE PUT IT TO THEM LARGELY BY CATEGORY. I THINK THAT WOULD BE THE BEST WAY TO SAY IT. I WOULD SUGGEST THAT WE ASK THEM IF THERE WAS A CONSPIRACY TO VIOLATE, FOR EXAMPLE, RACKETEERING ACT 5 AND RACKETEERING ACT 12, THE MARIO SALINAS COUNTS THAT ARE SEPARATE AND APART AND DIFFERENT IN NATURE FROM THE GENERAL RACKETEERING ACT COUNTS CONTAINED WITH BRIG MARMOLEJO TAKING THE THOUSAND DOLLARS HERE AND THE FIVE THOUSAND DOLLARS THERE. THAT TYPE OF STUFF.

THE COURT: WELL, WAIT A MINUTE?

MR. SUROVIC: AND THE REASON I WOULD SUGGEST THE COURT HANDLE IT THAT WAY IS –

[p. 1585] THE COURT: WHICH TWO? WHICH ONES ARE YOU PULLING OUT?

MR. SUROVIC: NO. 5 WOULD BE, I BELIEVE, THE WATCHES, MARIO SALINAS TAKING THE WATCHES, AND NO. 12 IS THE TRUCK.

THE COURT: WELL, WHO WOULD'VE CONSPIRED WITH WHO ON THE TRUCK? I MEAN, THERE'S NO INDICATION AT ALL THAT THAT WAS A CONSPIRACY BETWEEN SALINAS AND MARMOLEJO.

MR. SUROVIC: WELL, YOUR HONOR, I WOULD ARGUE THAT, CIRCUMSTANTIALLY, THE JURY CAN INFER THAT MARMOLEJO KNEW THAT SALINAS WAS INVOLVED IN THAT PARTICULAR PREDICATE

ACT BECAUSE MR. SALINAS HAD FIGURED OUT HOW TO DO THAT PREDICATE ACT BY WATCHING HIM TAKE THE TRANS-AM.

THE COURT: WAIT A MINUTE WHAT NOW?

MR. SUROVIC: WELL, I BELIEVE THAT, CIRCUMSTANTIALLY, THE JURY CAN INFER THAT BRIG MARMOLEJO KNEW THAT MARIO SALINAS WAS APPROACHING HOMERO BELTRAN AND JUAN ANTONIO GUARDADO.

THE COURT: BUT WAIT A MINUTE.

MR. SUROVIC: YES, SIR.

THE COURT: WAIT A MINUTE. I'M WILLING, AND I THINK IT OUGHT TO BE, TO MAKE RICO CONSPIRACY CLOSER TO WHAT GENERAL CONSPIRACY LAW IS, BUT I'M NOT WILLING TO MAKE IT WHAT THE GENERAL CONSPIRACY LAW ISN'T. IT IS NOT A CRIME FOR ME TO KNOW THAT A FELLOW WORKER IS COMMITTING A CRIME.

[p. 1586] MR. SUROVIC: NO, SIR.

THE COURT: I MEAN, IT'S NOT EVEN A CONSPIRACY THAT I KNOW THAT SOME GUY NEXT TO ME IS TAKING BRIBES AND I KNOW IT. I MEAN, THAT DOESN'T MAKE US CONSPIRATORS, THAT DOESN'T MEAN WE HAVE A MEETING OF THE MINDS TO COMMIT THAT CRIME TOGETHER. IT SEEMS TO ME . . . AND I KNOW WHAT YOU'RE AFRAID OF, BECAUSE YOUR BOOK TELLS YOU TO BE AFRAID OF IT, THE KIND OF CASE WHERE THERE ARE A SERIES OF PREDICATE ACTS OF WHICH SOME

END UP LEGALLY INSUFFICIENT, LEGALLY INSUFFICIENT, TO WIT: THE MAIL FRAUD KIND.

MR. SUROVIC: YES, SIR.

THE COURT: THAT TURNED OUT THAT THE SUPREME COURT SAID THAT'S NOT A CRIME ANYMORE. I COULD EVEN UNDERSTAND, FOR EXAMPLE, IN THIS CASE, IF YOUR RICO COUNTS WERE HALF PREDICATED ON, SAY, 666, WHICH IS A LITTLE BIT . . . A STATUTE THAT'S A LITTLE BIT FLUX, AND THEN YOU WOULD SAY, WELL, WE WANT TO KNOW WHETHER THEY'RE PREDICATING IT ON BRIBERY OR PREDICATING IT ON 666, BUT IN THIS CASE, THE WHOLE THING IS PREDICATED ON BRIBERY. WHETHER IT'S LOANS, WHETHER IT'S MONEY, WHETHER IT'S WHATEVER, THE ENTIRE RICO . . . IT SEEMS TO ME THE ENTIRE RICO ENTERPRISE IS BASED ON THE FOLLOWING. THERE IS AN ENTERPRISE AT THE SHERIFF'S OFFICE, THE SHERIFF IS IN CHARGE OF IT, AND HE RUNS THAT ENTERPRISE IN A PATTERN OF RACKETEERING. WHY? BECAUSE HE RUNS THE SHERIFF'S OFFICE IN SUCH A WAY THAT AT LEAST TWO TIMES OR MORE, HE COLLECTS [p. 1587] FAVORS, BE IT TRUCKS, WATCHES, MONEY, OR WHATEVER, IN RETURN FOR EXERCISES OF HIS DISCRETION.

NOW, IF YOU STATE THE RICO THAT WAY, THEN IT SEEMS TO ME THAT . . . I THINK ALL I HAVE TO ASK IS, DOES SALINAS . . . IS HE AWARE OF ALL THAT. IS HE AWARE THAT SHERIFF MARMOLEJO IS RUNNING THE SHERIFF'S OFFICE IN A PATTERN OF

RACKETEERING BY AT LEAST TWO TIMES, AND PERHAPS MORE, EXERCISING HIS DISCRETION IN FAVOR OF BELTRAN IN RETURN FOR TANGIBLE BENEFITS, BE THEY MONEY, WATCHES, TRUCKS OR WHATEVER, AND KNOWING THAT, DID MARIO SALINAS REACH AN UNDERSTANDING . . . BECAUSE THE GOVERNMENT APPARENTLY TAKES THE POSITION NO OVERT ACTS ARE NEEDED.

RIGHT?

MR. SUROVIC: THAT'S CORRECT, YOUR HONOR.

THE COURT: DID MARIO SALINAS THEN REACH, IN SOME FASHION . . . AND IT DOESN'T HAVE TO BE IN WRITING AND IT DOESN'T HAVE TO BE A HANDSHAKE CEREMONY. BUT DID HE REACH A DEFINITE MEETING OF THE MINDS THAT HE WAS GOING TO BE A KNOWING, WILLFUL PARTICIPANT IN THIS SCHEME. NOT JUST TO DO ONE THING, BUT TO CONDUCT A PATTERN, TO ASSIST AND PARTICIPATE WITH AND JOIN IN WITH THE SHERIFF IN CONDUCTING THIS OFFICE AS A PATTERN OF RACKETEERING. IT SEEMS TO ME THAT IF I TELL THEM THAT, THEN THE ANSWER OUGHT TO BE SIMPLY THAT HE DOES OR HE DOESN'T.

MR. SUROVIC: I THINK YOU'RE RIGHT, YOUR HONOR. IF [p. 1588] I CAN ONLY REQUEST OF THE COURT, WHEN IT'S DESCRIBING THE PATTERN OF RACKETEERING ACTIVITY, TWO TIMES TAKING BRIBES, SO THAT IT'S DEFINED CLEARLY.

THE COURT: OKAY.

MR. SUROVIC: THAT THEY'RE MAKING A FINDING THAT HE –

THE COURT: TAKING BRIBES.

MR. SUROVIC: – CONSPIRED FOR TWO BRIBES AND NOT CONSPIRED FOR A GIFT OR SOMETHING LIKE THAT.

THE COURT: NO. THAT'S RIGHT.

MR. SUROVIC: YES, SIR.

THE COURT: YOU'RE RIGHT. IT WOULD HAVE TO BE A PATTERN, A SERIES OF BRIBE-TAKING. WHAT I MEAN WAS NOT NECESSARILY CASH ALL THE TIME. IT COULD BE CASH, IT COULD BE CARS, IT COULD BE WATCHES, IT COULD BE . . . BECAUSE THE TEXAS STATUTE SAYS "BENEFIT".

MR. SUROVIC: YES, SIR.

THE COURT: THAT'S ALL IT SAYS. IT COULD BE WATCHES, IT COULD BE WHATEVER, AND LOOK TO COUNT ONE FOR ALL THE WHATEVERS. LOOK TO ALL OF THOSE THINGS FOR THE WHATEVERS. BUT WAS HE AWARE THAT THIS SERIES OF BRIBE-TAKING, BRIBE-TAKING, WAS GOING ON BY THE SHERIFF, RUNNING THIS OFFICE IN THAT PATTERN TO ACCEPT BENEFITS IN RETURN FOR FAVORS, BRIBES, FOR BELTRAN OVER THIS PERIOD OF TIME AND KNOWING THAT, DID HE DELIBERATELY AND WILLFULLY REACH AN [p. 1589] AGREEMENT WITH THE SHERIFF THAT HE WAS GOING TO PARTICIPATE IN THAT AND HELP IN THAT AND BE PART OF THAT IN SOME FASHION.

MR. SUROVIC: ON AT LEAST TWO OCCASIONS.

MR. MORENO: ON TWO.

MR. SUROVIC: RIGHT.

THE COURT: OKAY. YOU WANT ME TO SPECIFY, "ON AT LEAST TWO OCCASIONS"?

MR. SUROVIC: RIGHT, YOUR HONOR.

THE COURT: OKAY.

MR. SUROVIC: THAT THEY DON'T HAVE TO SPECIFICALLY FIND –

THE COURT: OKAY.

MR. SUROVIC: – THE TWO OCCASIONS, BUT THAT HE KNEW THAT IT WAS GOING TO HAPPEN FOR TWO OCCASIONS.

THE COURT: ALL RIGHT.

MR. ENRIQUEZ: YOUR HONOR, IF I MAY. I BELIEVE THAT THE REASON THAT THE RICO STATUTE IS INTERPRETED IN THE FORM WHERE THEY'RE NOT TALKING ABOUT OVERT ACTS, LIKE THEY TALK IN A TRADITIONAL CONSPIRACY, IS BECAUSE THE CASES REQUIRE THAT THERE BE SPECIFIED TWO RACKETEERING ACTS THAT THEY PERSONALLY TOOK PART IN.

THE COURT: WELL, YES, FOR SUBSTANTIVE RICO. THERE'S NO QUESTION ABOUT THAT.

MR. ENRIQUEZ: AND FOR CONSPIRACY?

THE COURT: WELL, THAT'S WHAT I DON'T KNOW. THE [p. 1590] SENSE I'M GETTING IS THAT THAT'S WHERE THE SPLIT OF THE CIRCUITS IS. I'M JUST SAYING TO YOU, COUNSEL, AND I'M NOT TRYING TO HURT YOUR CLIENT, BUT IT JUST SEEMS TO ME THAT I'M EITHER NOT GOING TO DO IT AT ALL OR . . . IT EITHER DOESN'T MAKE ANY SENSE TO ME AT ALL, HOW TO DO IT, AS I'VE SAID, OR IF WE'RE GOING TO DO IT AT ALL . . . SEE, IT WOULDN'T HURT MY FEELINGS IF THE GOVERNMENT JUST SAYS, LET'S JUST DROP COUNT TWO, BECAUSE, AS I SAY, I THINK IT'S TOTALLY REDUNDANT AS TO MARMOLEJO, TOTALLY REDUNDANT.

AND AS TO SALINAS, IT'S JUST REALLY KIND OF A DIFFERENT SHOT. IT MAKES A LITTLE MORE SENSE FOR SALINAS, BUT OTHER THAN THAT, WHAT I'M SAYING IS . . . THE ONLY WAY I CAN SUBMIT IT, THAT MAKES ANY SENSE, IS . . . AND I WOULDN'T DO THIS JUST TO MAKE IT UP, EXCEPT THAT IT DOES LOOK LIKE VIRTUALLY EVERY CIRCUIT, RECENTLY, THAT'S WRITTEN ON THIS SUBJECT, WRITES ON IT THE WAY I'M TALKING ABOUT IT. AND THERE'S THIS PROBLEM THAT THERE'S SOME OLD FIFTH CIRCUIT CASES THAT ARGUABLY MEAN SOMETHING ELSE.

NOW, THE ELEVENTH CIRCUIT, SUPPOSEDLY, HAS NOW SAID THAT THE FIFTH PROBABLY NEVER MEANT THAT AND WOULDN'T MEAN IT TODAY. THAT CASE YOU ALL GAVE ME A MONTH OR TWO AGO SAYS, "WELL, WE DON'T NEED TO REACH THAT", BUT I'M JUST SAYING THAT EVEN IF I GET REVERSED ON IT, AT LEAST WE'LL GET THE LAW

CLEARED UP. BUT IT JUST DOESN'T MAKE ANY SENSE . . . IT DOESN'T MAKE ANY SENSE TO SUBMIT IT THE OTHER WAY, BECAUSE IT [p. 1591] JUST DOESN'T MAKE ANY SENSE.

MR. ENRIQUEZ: YOUR HONOR –

THE COURT: ONCE THEY'VE GONE THROUGH THE WHOLE LIST OF SUBSTANTIVE OFFENSES, IT DOESN'T MAKE ANY SENSE TO SAY, NOW FIND OUT WHICH PRECISE TWO, OTHER THAN THE ONES THEY'VE ALREADY ASKED ABOUT, 'CAUSE BY THEN I WOULD'VE ALREADY ASKED ABOUT THE TRUCK, THE WATCHES AND SO FORTH ON HIM. SO THEN WHAT I WOULD BE ASKING THEM IS, NOW GO DOWN THE PRECISE ONES FOR MARMOLEJO AND TELL ME WHICH ONES HE JOINED IN ON AND THERE'D BE NO EVIDENCE . . . TO ME, THERE'S NO EVIDENCE TO SUBMIT THAT BECAUSE I COULDN'T TELL YOU MYSELF.

MR. ENRIQUEZ: I THINK THAT'S RIGHT.

THE COURT: I COULDN'T TELL YOU RIGHT NOW WHICH ONE HE JOINED IN ON. I COULD TELL YOU THAT I THINK THERE'S EVIDENCE THAT HE WILLFULLY PARTICIPATED . . . KNEW THAT THERE WAS A SCHEME GOING ON AND JOINED IN IT, WHICH, AS FAR AS I EVER KNEW, WAS ALL THAT A CONSPIRACY REQUIRED, BUT IF YOU ASK ME WHICH TWO, NOT OF HIS BUT OF MARMOLEJO'S, DID HE JOIN IN, I'D TELL YOU . . . NOBODY COULD TELL.

MR. ENRIQUEZ: THAT'S RIGHT.

THE COURT: THERE'S NO WAY TO TELL.

MR. ENRIQUEZ: THAT'S RIGHT. THERE'S NO EVIDENCE ON THAT.

THE COURT: IN WHICH CASE, IF I WERE INTELLECTUALLY HONEST ABOUT IT, I'D JUST HAVE TO INSTRUCT HIM OUT OF COUNT [p. 1592] TWO.

MR. ENRIQUEZ: IF I COULD CITE THE COURT A 1993 NEW YORK CASE, WESTERN DISTRICT OF NEW YORK, 825 FED SUPPLEMENT, 534.

THE COURT: WRITE THAT DOWN.

(LAW CLERK COMPLYING

MR. ENRIQUEZ: 825 F-SUP, 534, WHICH CONTINUES TALKING IN TERMS OF, "AGREEING TO PARTICIPATE IN TWO PREDICATE RACKETEERING ACTS", AND THAT, APPARENTLY, IS STILL THE LAW, YOUR HONOR. AND IN THE FIFTH CIRCUIT, UNDER MARCELLO, WE STILL HAVE THAT LAW, THAT IT REQUIRES PERSONAL PARTICIPATION IN TWO RACKETEERING ACTS.

THE COURT: WELL, I'LL STUDY IT. YOU KNOW, I DID REVERSE MYSELF OVER THE WEEKEND ON THE OTHER THING. I'LL STUDY IT A COUPLE OF HOURS THIS AFTERNOON. BUT IT JUST SEEMS TO ME THAT I'M CAUGHT IN THAT DILEMMA. IT EITHER SHOULD NOT BE SUBMITTED AT ALL UNDER THAT INTERPRETATION OF THE LAW –

MR. ENRIQUEZ: I AGREE, BECAUSE THERE'S NO FACTS.

THE COURT: – OR IT SHOULD BE SUBMITTED IN WHAT, IT SEEMS TO ME, IS CLASSIC CONSPIRACY LAW. GRANTED, THE OBJECT OF THE CONSPIRACY IS A LITTLE DIFFERENT, BECAUSE HERE THE OBJECT OF THE CONSPIRACY IS A CRIME THAT REQUIRES TWO OR MORE ACTS, BUT AS LONG AS I TELL THEM THAT HE HAS TO KNOW THAT THE OBJECT OF THE CONSPIRACY IS RUNNING THE ENTERPRISE WITH A PATTERN OF RACKETEERING, INVOLVING MORE THAN TWO ACTS, KNOW-[p. 1593]ING THAT, DID HE THEN, AT SOME POINT, JOIN IN TO PARTICIPATE IN ASSISTING THAT CONSPIRACY TO BE RUN. IT SEEMS TO ME THAT'S CLASSIC CONSPIRACY LAW WITH RICO. AND WHY IT SHOULD BE ANY DIFFERENT, I DON'T KNOW. IT SEEMS TO ME THAT THE LAW IS AT LEAST IN ENOUGH OF A STATE OF FLUX THAT . . . YOU KNOW, THAT WE MIGHT AS WELL GO AHEAD AND FIND OUT.

THE ONLY WAY THAT IT'S GOING TO REALLY BE OF ANY MEANINGFUL CONSEQUENCE TO YOUR CLIENT IS IF THAT'S THE ONLY SINGLE ACT THEY . . . I MEAN, IF THAT'S THE ONLY COUNT THEY FIND HIM ON, IN WHICH CASE . . . YOU KNOW, AND WE CAN CROSS THAT BRIDGE WHEN WE GET THERE. EITHER THEY'LL ACQUIT HIM ON IT OR THEY'LL CONVICT HIM OF OTHERS, WHICH MAKES IT VIRTUALLY SUPERFLUOUS. OR IF THAT'S THE ONLY ONE, THEN WE'LL EITHER DEAL WITH IT WITH A POST-CASE MOTION OR I'LL DEAL WITH IT BY JUST LETTING YOU . . . YOU KNOW, WE CAN WORK OUT WHETHER I MAKE A RULING THAT

THAT'S A VERY VIABLE GROUNDS FOR APPEAL. WE CAN HANDLE IT THAT WAY AND SEE WHAT . . . YOU KNOW, ON AN APPELLATE BOND OR SOMETHING. BUT AT LEAST WE'LL GET AN ANSWER. AND THIS, IT SEEMS TO ME, IS AN EXCELLENT CASE TO TEST THE ANSWER, BECAUSE I THINK WE'VE GOT IT PRETTY WELL FOCUSSED.

MR. ENRIQUEZ: I'D RATHER BE ON ANOTHER CASE, YOUR HONOR, AND NOT THIS CASE.

MR. CANALES: ANOTHER POINT, YOUR HONOR.

THE COURT: WELL, NO. I WOULDN'T DO IT JUST TO DO [p. 1594] IT, EXCEPT IT SEEMS TO ME THAT I DON'T UNDERSTAND WHY THIS OTHER NOTION HAS CREPT INTO THE LAW. IT JUST SEEMS TO ME IT'S A NOTION THAT DOESN'T MAKE ANY SENSE. NOT ONLY DO YOU HAVE TO KNOW THAT A RACKETEERING PATTERN IS GOING ON AND YOU WILLFULLY JOIN IN ON SOME OCCASION TO HELP IT, BUT YOU HAVE TO ACTUALLY PICK OUT TWO ACTS AND CONSPIRE TO THEM.

I MEAN, IF THAT'S THE CASE, THERE'S NOT A HECK OF A LOT OF DIFFERENCE. THAT'S ALMOST INDISTINGUISHABLE BETWEEN CONSPIRACY AND SUBSTANTIVE. I REALLY DON'T UNDERSTAND THE SENSE OF IT, TO LIMIT IT THAT WAY. OKAY. WELL, WE'RE READY THEN?

BUT YOU GUYS, AS FAR AS TRAVEL ACT AND ALL THAT . . . WELL, LET'S SEE. DID ANYBODY SUBMIT A 666 INSTRUCTION? I CAN'T FIND ONE IN THE PATTERN BOOK.

MR. CANALES: THE GOVERNMENT DID.

MR. SUROVIC: YES, YOUR HONOR, I DID. AND I CAN PROVIDE A COPY OF IT TO THE COURT.

THE COURT: PLEASE, YES, BECAUSE . . . I MEAN, I'LL RESERVE THE RIGHT TO AMEND IT, BUT I'D SURE LIKE TO HAVE SOMETHING TO START OFF WITH.

HAVE YOU FOLKS SEEN IT?

MR. CANALES: THERE'S NOTHING IN THE PATTERN, JUDGE. I CHECKED THE –

THE COURT: IT'S NOT EVEN IN NATIONAL PATTERN BOOKS.

MR. CANALES: NO, NO. THERE'S ONE THAT HAS THE

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[p. 1714]* * * *

PASSED BY THE FEDERAL CONGRESS IN WASHINGTON, STATUTES, AND THEN SOME STATUTES ARE PASSED BY THE STATE LEGISLATURE IN AUSTIN. ALL OF THE CRIMES THAT WE'RE GOING TO DEAL WITH, ULTIMATELY, ARE FEDERAL CRIMES, BUT A COUPLE OF THESE FEDERAL CRIMES ARE BASED ON DOING CERTAIN THINGS WHILE IN THE PROCESS OF COMMITTING A STATE CRIME, OR DOING CERTAIN THINGS KNOWING THAT A STATE CRIME IS INVOLVED, AND SO WE'LL GET TO THAT IN A MINUTE. BUT THIS ONE, THIS PARTICULAR ONE, IS BASED ON A STATUTE . . . WHICH YOU SEE THERE AT THE BOTTOM. AT THE BOTTOM OF PAGE 43, IT SAYS, "IN VIOLATION OF 18 UNITED STATES CODE".

NOW, TITLE 18 OF THE UNITED STATES CODE, INCIDENTALLY, IS THE BOOK . . . AND THE UNITED STATES CODE GOES ON FOREVER AND EVER AND FEELS [sic] UP OUR SHELVES. BUT TITLE 18 IS THE ONE THAT HAS TO DO WITH ALL THE CRIMINAL LAWS THAT THE CONGRESS PASSES IN WASHINGTON, AND IN THAT BOOK, SECTION 666, HAS THIS PARTICULAR STATUTE THAT HAS TO DO WITH BRIBERY. IT'S A FEDERAL BRIBERY STATUTE THAT HAS TO DO WITH CERTAIN KINDS OF PROGRAMS OR ACTIVITIES THAT ARE FUNDED BY THE FEDERAL GOVERNMENT. THEY CAN BE STATE OR LOCAL PROGRAMS AS LONG AS THEY'RE FUNDED BY THE FEDERAL GOVERNMENT.

NOW, REMEMBER BACK WHEN WE'RE TALKING ABOUT HOW MUCH MONEY THE SHERIFF'S OFFICE

RECEIVED? I TOLD YOU THAT THAT WAS BECAUSE OF THE REQUIREMENT THAT IT HAS TO GET SO MUCH MONEY FROM THE FEDERAL GOVERNMENT IN ORDER TO QUALIFY [p. 1715] FROM THE STATUTE. SO WITH THAT IN MIND, LET'S JUST KIND OF READ THROUGH THE CHARGE AND THEN I'LL GO OVER THE ELEMENTS. FIRST OF ALL, WHAT IS DONE THERE IS THAT . . . YOU SEE THERE IT SAYS . . . THE ALLEGATIONS OF PARAGRAPHS 1 THROUGH 5 OF COUNT ONE ARE RE-INCORPORATED, AND SOME OTHER PARAGRAPHS THERE, AND THAT'S FINE; THAT'S BACKGROUND MATERIAL.

NOW, THE NEXT PARAGRAPH SETS OUT THE JURISDICTION REQUIREMENT. IT ALLEGES HERE AND STATES THAT THE HIDALGO COUNTY SHERIFF'S OFFICE IS AN AGENCY OF THE LOCAL GOVERNMENT OF HIDALGO COUNTY, TEXAS AND THAT IT RECEIVED FEDERAL ASSISTANCE OF MORE THAN TEN THOUSAND DOLLARS DURING A ONE YEAR PERIOD BEGINNING JUNE 1 OF '91 AND GOING TO JUNE 1 OF '92, AND UNDER THE STATUTE, ANY TWELVE MONTH PERIOD CAN . . . IT DOESN'T HAVE TO BE FROM JANUARY TO DECEMBER. IT CAN BE ANY TWELVE MONTHS.

SO FOR COUNT THREE, WE'RE TALKING ABOUT . . . IN OTHER WORDS, THIS IS BASICALLY COVERING . . . TO TALK IN TERMS OF THIS CASE HERE, COUNT THREE BASICALLY COVERS HIS FIRST STAY IN THE JAIL, WHICH IS, AS YOU RECALL, FROM JUNE . . . I THINK IT WAS ROUGHLY JUNE TO . . .

WHAT WAS IT, NOVEMBER OR SOMETHING?

MR. SUROVIC: APRIL, YOUR HONOR.

THE COURT: JUNE TO APRIL, JUNE '91 TO APRIL OF '92, AND THEN THE SECOND STAY WAS LATER THAT YEAR, NOVEMBER OF '92 TO THE SPRING OF '93, AND THAT'S GOING TO BE COUNT FOUR. [p. 1716] EVERYTHING I'M GOING TO TELL YOU ABOUT COUNT THREE IS IDENTICAL TO COUNT FOUR, EXCEPT THAT IT'S A DIFFERENT TIME FRAME. OKAY. SO WHAT IT SAYS HERE IS THAT FOR COUNT THREE, WE'RE GOING TO LOOK AT A PERIOD OF JUNE 1 OF '91 TO JUNE 1 OF '92.

SO FIRST OF ALL, THE GRAND JURY ALLEGES THAT DURING THAT TIME, THE SHERIFF'S OFFICE WAS AN AGENCY OF HIDALGO COUNTY AND DID RECEIVE, DURING THAT TIME, TEN THOUSAND DOLLARS OF FEDERAL ASSISTANCE. OKAY? NOW, THE EVIDENCE THERE IS NOT TERRIBLY DISPUTED. IN FACT, IT WAS NOT ONLY TEN THOUSAND A YEAR. IT WAS SOMETHING LIKE SEVENTY THOUSAND A MONTH, ACCORDING TO THE EVIDENCE. BUT ANYWAY, YOU HAVE TO BE SATISFIED THAT IT'S AT LEAST TEN THOUSAND A YEAR.

NOW, WITH THAT IN MIND, WITH PARAGRAPH TWO AS A BACKGROUND, THEN PARAGRAPH THREE ALLEGES THAT FROM A PERIOD OF OCTOBER 1 OF '91 TO APRIL 14 OF '92, WHICH IS GENERALLY WHEN BELTRAN WAS IN JAIL, DURING THAT PERIOD, THAT DURING THAT TIME, THESE TWO DEFENDANTS – AND THEN HERE COMES THE WORDS OF THE STATUTE. IF YOU'LL LOOK AFTER THEIR NAME, "DID KNOWINGLY AND CORRUPTLY

SOLICIT, DEMAND, ACCEPT AND AGREED TO ACCEPT SOMETHING OF VALUE". NOW, THAT'S THE KEY PHRASE, "SOMETHING OF VALUE", FROM HOMERO BELTRAN-AGUIRRE. AND HERE'S THE NEXT KEY PHRASE, "INTENDING TO BE INFLUENCED . . . INTENDING TO BE INFLUENCED OR REWARDED IN CONNECTION WITH A BUSINESS TRANSACTION OR SERIES OF TRANSACTIONS OF THE SHERIFF'S OFFICE INVOLVING A VALUE OF FIVE THOUSAND DOLLARS OR [p. 1717] MORE".

NOW, LET ME TRY TO BREAK DOWN SOME OF THAT FOR YOU. "FEDERAL ASSISTANCE", INCIDENTALLY, FOR PURPOSES OF THE STATUTE . . . AND THESE ARE DEFINITIONS ON THE STATUTE. "FEDERAL ASSISTANCE" MEANS ANY GRANT OR CONTRACT. IT INCLUDES CONTRACTS. ANY GRANT, CONTRACT, LOAN, INSURANCE OR OTHER FORM OF BENEFIT SUPPLIED BY THE UNITED STATES GOVERNMENT. AND AS TO WHETHER THESE DEFENDANTS ARE AGENTS OF THE SHERIFF'S OFFICE, "AN AGENT" SIMPLY MEANS A PERSON WHO IS AN EMPLOYEE OF THE AGENCY OR IS AUTHORIZED TO ACT FOR THE AGENCY. AND THE STATUTE SPEAKS IN TERMS OF A GOVERNMENTAL AGENCY, WHICH CAN SIMPLY BE ANY BRANCH OF THE GOVERNMENT. IT CAN BE THE EXECUTIVE BRANCH, THE JUDICIAL BRANCH, THE LEGISLATIVE BRANCH. AND THE STATUTE ALSO INCLUDES STATE OR LOCAL.

SO YOU HAVE STATE AGENCIES AND THEN YOU HAVE LOCAL, WHICH WOULD BE ANY POLITICAL SUBDIVISION OF A STATE, WHICH WOULD INCLUDE

A COUNTY OR CITY OR THAT SORT OF THING. THE TERM "ONE YEAR PERIOD" IN THE STATUTE MEANS ANY TWELVE MONTH PERIOD BEGINNING NO EARLIER THAN TWELVE MONTHS BEFORE THE OFFENSE OR ENDING NO LATER THAN TWELVE MONTHS AFTER THE OFFENSE.

SO IN THIS CONNECTION, I WOULD INSTRUCT YOU THAT THE HIDALGO COUNTY SHERIFF'S OFFICE IS, OF COURSE, AN AGENCY OF HIDALGO COUNTY AND, THEREFORE, IT IS A SUBDIVISION OF THE GOVERNMENT OF THE STATE OF TEXAS UNDER . . . FOR PURPOSES [p. 1718] OF THE STATUTE. AND THERE'S NO DISPUTE THAT DEFENDANTS MARMOLEJO AND SALINAS WERE AGENTS OF THE SHERIFF'S OFFICE DURING THAT TIME.

SO HERE ARE THE ELEMENTS OF THIS OFFENSE. HERE'S WHAT THE GOVERNMENT HAS TO PROVE TO YOU. IT'S THREE THINGS. NUMBER ONE, THAT THESE DEFENDANTS, DURING THAT TIME PERIOD, IN OTHER WORDS, DURING THE PERIOD OF JUNE 1 TO '91, WERE, IN FACT, AGENTS OF EITHER A STATE GOVERNMENT OR A LOCAL GOVERNMENT OR ANY AGENCY OF THE STATE OR LOCAL GOVERNMENT, IN THIS CASE, THE WEBB COUNTY SHERIFF'S OFFICE. THAT THE WEBB COUNTY SHERIFF'S OFFICE IS AN AGENCY OF –

MR. MORENO: YOUR HONOR, YOU KEEP SAYING "WEBB COUNTY".

THE COURT: I'M SORRY. HIDALGO COUNTY. FORGIVE ME. THE HIDALGO COUNTY SHERIFF'S OFFICE IS, IN FACT, AN AGENCY OF GOVERNMENT.

THAT IT'S AN AGENCY OF THE COUNTY, WHICH IS A SUBDIVISION OF THE STATE, AND THAT, IN FACT, THEY WERE AGENTS OF THE HIDALGO COUNTY SHERIFF'S OFFICE. THAT'S NUMBER ONE.

NUMBER TWO, YOU HAVE TO BE SATISFIED FROM THE EVIDENCE THAT FROM JUNE 1 OF '91 TO JUNE 1 OF '92, THAT DURING THAT PERIOD OF TIME, THAT THE HIDALGO COUNTY SHERIFF'S OFFICE RECEIVED AT LEAST TEN THOUSAND DOLLARS IN FEDERAL ASSISTANCE, IN FEDERAL MONEY, BY WAY OF A GRANT OR A CONTRACT.

THEN, NUMBER THREE, AND THIS IS REALLY THE . . . THIS IS THE PART THAT'S BEYOND THE TECHNICAL REQUIREMENTS. [p. 1719] THAT THESE DEFENDANTS DID EITHER SOLICIT, WHICH IS ASKED FOR, OR DEMAND, OR ACCEPT OR AGREE TO ACCEPT FROM BELTRAN ANYTHING OF VALUE, ANYTHING OF VALUE. FOR PURPOSES OF THIS STATUTE, IT CAN BE ANYTHING OF VALUE, MONEY, CARS, WATCHES, FOOD, ANYTHING OF VALUE INTENDING TO BE INFLUENCED.

NOW, THAT WOULD BE THE NEXT CRITICAL ITEM HERE, INTENDING TO BE INFLUENCED, THAT THEY RECEIVED ANYTHING OF VALUE INTENDING TO BE INFLUENCED IN CONNECTION WITH ANY BUSINESS OR TRANSACTION OF THE SHERIFF'S OFFICE OR SERIES OF TRANSACTIONS INVOLVING MORE THAN FIVE THOUSAND DOLLARS.

NOW, FOR PURPOSES OF THE STATUTE, THE ACTUAL MONEY THAT EXCHANGED HANDS, IF ANY, DOES NOT HAVE TO BE NECESSARILY ANY

PART OF THE FEDERAL MONEY. IN OTHER WORDS, THERE'S NO EFFORT HERE TO TRY TO SHOW EXACTLY WHERE THE FEDERAL MONEY GOES AND THE BUDGET VERSUS ANY MONEY. THAT'S NOT NECESSARY. THE ONLY THING THAT'S NECESSARY IS THAT, IN FACT, THIS IS AN AGENCY THAT RECEIVES TEN THOUSAND DOLLARS DURING THAT YEAR PERIOD; THAT IT IS AN AGENCY OF GOVERNMENT; THAT THESE TWO DEFENDANTS ARE AGENTS OF THAT AGENCY; AND THAT DURING THIS PERIOD OF TIME, THEY CORRUPTLY RECEIVED . . . THEY SOLICITED AND/OR RECEIVED. IT SAYS "AND" IN THE INDICTMENT; IT CAN BE EITHER ONE. THEY CORRUPTLY SOLICITED AND/OR RECEIVED ANYTHING OF VALUE, MONEY, CARS, WATCHES, MERCHANDISE, BUT INTENDING TO BE INFLUENCED OR REWARDED. IN OTHER WORDS, THAT'S . . . AS THE CASE IS SHAPING UP HERE, THAT WOULD BE KIND [p. 1720] OF THE CRITICAL DECISION FOR YOU HERE, DID THEY RECEIVE THOSE THINGS INTENDING TO BE REWARDED OR INFLUENCED IN CONNECTION WITH ANY OF THE TRANSACTIONS OF THE SHERIFF'S OFFICE INVOLV1ING A VALUE OF FIVE THOUSAND DOLLARS OR MORE.

NOW, LET ME SPEAK TO YOU ABOUT THE FIVE THOUSAND DOLLARS. IN THIS PARTICULAR CASE, THE ALLEGATION IS THAT THEY WERE INTENDING TO BE INFLUENCED WITH RESPECT TO CONTACT VISITS. NOW, CONTACT VISITS IS AN INTANGIBLE. THAT'S NOT LIKE . . . THAT'S NOT THE SAME AS, SAY, TAKING A BRIBE TO AWARD SOMEBODY A CONTRACT OR GIVE SOMEBODY SOMETHING, IN WHICH

CASE, YOU CAN PRETTY MUCH PUT A VALUE ON IT. IN THIS CASE, CONTACT VISIT IS WHAT WE CALL "AN INTANGIBLE". I MEAN, THERE'S NO MARKET VALUE AS SUCH FOR A CONTACT VISIT, BUT YOU ARE . . . YOU DO HAVE THE POWER TO DECIDE WHAT IS THE VALUE OF CONTACT VISITS OF THOSE SERIES OF TRANSACTIONS. AND IT WOULD BE THE SAME THAT YOU WOULD EVALUATE ANY OTHER INTANGIBLE ITEM. IN FACT, IF YOU BELIEVE THAT MONEY WAS EXCHANGED, IF YOU BELIEVE THAT MONEY OR PROPERTY OR THINGS OF VALUE WERE EXCHANGED, YOU CAN LOOK AT THOSE THEMSELVES AS, IN EFFECT, SETTING THE VALUE OF THE SERIES OF TRANSACTIONS.

SO LET ME KIND OF SUMMARIZE. IN OTHER WORDS, THE STATUTE TRIES TO PUT TWO LIMITS ON WHEN THE FEDERAL JURISDICTION COMES IN. ONE LIMIT IS THAT IT HAS TO BE AN AGENCY THAT RECEIVES A CERTAIN AMOUNT OF FEDERAL MONEY. SO THAT'S ONE LIMIT AT THE TOP. IT HAS TO RECEIVE TEN THOUSAND [p. 1721] DOLLARS OR MORE DURING A YEAR. AND THERE'S NO DISPUTE THE HIDALGO SHERIFF'S OFFICE RECEIVES THAT MUCH DURING THE YEAR. BUT THE NEXT LIMIT ON JURISDICTION IS THAT THE TRANSACTIONS FOR WHICH THE DEFENDANTS . . . IF YOU BELIEVE THEY WERE SOLICITING OR ACCEPTING THINGS OF VALUE, YOU HAVE TO BELIEVE THAT THE TRANSACTIONS THEMSELVES, THE SERIES OF TRANSACTIONS, WERE ENOUGH TO HAVE A VALUE OF MORE THAN FIVE THOUSAND DOLLARS.

NOW, OF COURSE, WHAT WE'RE TALKING ABOUT HERE IS THIS, AND THIS IS REALLY WHAT YOU'RE GOING TO HAVE TO DECIDE. THOSE ARE THE LEGAL TERMS, BUT THIS IS WHAT WE'RE TALKING ABOUT. WHAT THE GOVERNMENT IS SAYING IS THAT DURING THAT PERIOD OF TIME, THE DEFENDANTS WERE SOLICITING AND RECEIVING CARS, WATCHES AND MONEY, AMONG OTHER THINGS, EVEN LEAVING ASIDE WHATEVER MEAT OR ANYTHING LIKE THAT, AND CANDY. BUT CARS, MONEY, WATCHES AND SO FORTH THAT OVER THE COURSE OF THE YEAR, ESPECIALLY OVER THE COURSE OF OCTOBER 1, 1991 TO APRIL 14, 1992, DID HAVE A VALUE OF MORE THAN FIVE THOUSAND DOLLARS, BY THE VERY NATURE THAT THAT'S THE PRICE THAT WAS PUT ON THEM. IT WAS A SERIES OF TRANSACTIONS AND THAT THEY WERE INTENDING TO BE INFLUENCED OR REWARDED IN HANDLING THESE TRANSACTIONS.

NOW, WHAT ARE THE TRANSACTIONS? THE TRANSACTIONS ARE ALLOWING CONTACT VISITS. SO THAT, THEREFORE, THEY SOLICITED, ACCEPTED OR AGREED TO ACCEPT THINGS OF VALUE, INTENDING TO BE INFLUENCED IN A SERIES OF TRANSACTIONS, SPE-[p. 1722]CIFICALLY, A SERIES OF TRANSACTIONS ON THESE CONTACT VISITS, THAT HAD A VALUE OF MORE THAN FIVE THOUSAND DOLLARS.

NOW, IF YOU ACCEPT THE GOVERNMENT'S THEORY, WELL, THEN, OF COURSE, THEY HAD A VALUE OF MORE THAN FIVE THOUSAND DOLLARS IN THIS FIRST TIME FRAME. IN EITHER TIME FRAME. EITHER

TIME FRAME YOU WANT TO TAKE, YOU CAN ADD UP THE MONEY AND IT COMES INTO WELL ABOVE FIVE THOUSAND OF EITHER CARS OR WATCHES OR CASH AND IT WOULD RUN INTO SIGNIFICANTLY MORE THAN THAT IN EITHER OF THESE TWO TIME FRAMES. "INTENDING TO BE INFLUENCED OR REWARDED?" WELL, THAT'S THE GOVERNMENT'S THEORY, THAT THEY TOOK THE MONEY INTENDING TO BE INFLUENCED OR REWARDED IN A TRANSACTION AT THE SHERIFF'S OFFICE, A SERIES OF TRANSACTIONS, TO-WIT: CONTACT VISITS.

NOW, THE DEFENSE THEORY HERE IS THE SAME AS IT IS IN ALL OF THEM AND THIS CUTS ACROSS ALL THESE CASES. THAT MAYBE THEY DID TAKE CERTAIN THINGS OF VALUE, AND IN THIS CASE, THEY WOULD NOT DISPUTE THAT THE HIDALGO COUNTY RECEIVED SO MUCH MONEY OR THAT THERE WERE A SERIES OF TRANSACTIONS, BUT THEIR VIEW HERE, AS I UNDERSTAND IT, WOULD BE, WE DID NOT TAKE ANYTHING INTENDING TO BE INFLUENCED OR REWARDED. SO THAT WOULD BE THAT PARTICULAR CASE.

NOW, LET ME SAY ONE FINAL THING AND THAT TAKES CARE OF BOTH OF THESE COUNTS. AS I UNDERSTAND THE EVIDENCE, AT LEAST, IF YOU BELIEVE THE GOVERNMENT'S . . . IF YOU GO WITH THE GOVERNMENT'S VERSION OF THIS EVIDENCE, AND I'M TALKING [p. 1723] ABOUT JUST THE VALUE, THERE WOULD BE LITTLE DOUBT THAT DURING THE COURSE OF OCTOBER OF '91 TO APRIL OF '92, THAT AT LEAST SHERIFF MARMOLEJO . . . THAT HE WAS INVOLVED IN A SERIES OF TRANSACTIONS

INVOLVING A VALUE OF FIVE THOUSAND DOLLARS OR MORE. MARIO SALINAS DIRECTLY . . . AND I'M NOT SURE THE EVIDENCE WOULD PLACE HIM DIRECTLY INVOLVED IN A SERIES OF TRANSACTIONS INVOLVING FIVE THOUSAND OR MORE, BUT THE THEORY IN HIS CASE, AND THIS IS TRUE, TO A CERTAIN EXTENT, IN A COUPLE OF THESE OTHER CHARGES, IS THAT ALTHOUGH HE MAY NOT HAVE BEEN HIMSELF DIRECTLY INVOLVED IN BEING INFLUENCED IN A SERIES OF TRANSACTIONS OF MORE THAN FIVE THOUSAND DOLLARS, THAT HE WAS DELIBERATELY AIDING AND ABETTING THE SHERIFF TO DO THAT.

NOW I WILL SIMPLY TELL YOU WHAT IS THE LAW OF AIDING AND ABETTING. THE LAW IS THAT ANYTHING YOU CAN DO DIRECTLY, YOU CAN ALSO DO BY HELPING SOMEBODY ELSE, AND THE LAW IS THAT IF YOU KNOW THAT SOMEBODY ELSE IS COMMITTING A CRIME AND YOU DELIBERATELY AND WILLFULLY HELP HIM COMMIT THAT CRIME IN ORDER TO HELP HIM SUCCEED IN COMMITTING THE CRIME, THEN YOU YOURSELF ARE GUILTY OF THE CRIME JUST AS HE IS.

NOW, BEFORE YOU CAN MAKE THAT KIND OF A FINDING, YOU HAVE TO BE SATISFIED THAT MARIO SALINAS KNEW WHAT KIND OF CRIMINAL ACTIVITY, IF ANY, WAS GOING ON. THAT HE KNEW THE FACTS, HE KNEW THE CIRCUMSTANCES, AND THEN KNOWING THAT, IN OTHER WORDS, KNOWING THAT THERE WAS A SERIES OF TRANSACTIONS INVOLVING MORE THAN FIVE THOUSAND DOLLARS IN [p. 1724] WHICH THINGS WERE BEING GIVEN OF

VALUE FOR THE INTENT TO INFLUENCE DECISIONS, KNOWING ALL OF THAT, THAT HE DID JOIN IN AND DELIBERATELY HELPED OR ASSIST AT LEAST SOME TIMES IN ORDER TO HELP THAT OUT.

NOW, AGAIN, THE GOVERNMENT'S THEORY HERE IS THAT AT LEAST ON SEVERAL OCCASIONS, KNOWING WHAT WAS GOING ON, THAT HE WAS THE STAND-IN. HE WAS THE SORT OF BACK-UP GUY TO MAKE THE ARRANGEMENT SOME TIMES. EVEN THOUGH HE DIDN'T GET PERHAPS AS MUCH VALUE AS THE SHERIFF, DID NOT RECEIVE AS MANY THINGS OF VALUE, THAT HE DID RECEIVE SOME THINGS OF VALUE, BUT THAT HE KNEW WHAT THE SHERIFF WAS DOING AND THAT AT LEAST ON CERTAIN OCCASIONS, WILLFULLY AND DELIBERATELY JOINED IN TO HELP OUT.

NOW, YOU HAVE TO BE SATISFIED OF ALL THAT BEYOND A REASONABLE DOUBT BEFORE YOU CAN MAKE THAT FINDING. NOW, NOTICE THAT YOU CANNOT HOLD MR. SALINAS ON AN AIDING AND ABETTING CHARGE UNLESS YOU ARE SATISFIED THAT HE KNEW THE FACTS AND WILLFULLY JOINED IN WITH THE INTENT TO HELP COMMIT THIS TYPE OF CRIME. IN OTHER WORDS, IT IS NOT ENOUGH JUST THAT HE WORKS THERE. IT IS NOT ENOUGH JUST THAT THEY KNOW EACH OTHER. IT'S NOT ENOUGH THAT HE MAY HAVE HELPED OUT FROM TIME TO TIME INNOCENTLY. IN OTHER WORDS, HE DOES WORK THERE, HIS DUTIES ARE THERE, AND SO HE WOULD NOT BE AN AIDER AND ABETTER. HE WOULD NOT BE A PARTY TO A CRIME IF HE WAS DOING NORMAL DUTIES OR JUST HELPING OUT

WITH INSTRUCTIONS AND SO [p. 1725] FORTH, NOT KNOWING WHAT WAS GOING ON, NOT HAVING THE UNDERSTANDING OF WHAT THE CRIMINAL ACT WAS, AND NOT WANTING TO HELP COMMIT A CRIME.

NOW, HAVING SAID ALL THAT, I'M NOT TRYING TO SUGGEST TO YOU THAT I'M SAYING THAT THAT MEANS THAT SHERIFF MARMOLEJO WAS COMMITTING A CRIME. I'M SIMPLY SAYING THAT BY THE EVIDENCE HERE, AS FAR AS THE AMOUNT OF TRANSACTIONS, THERE IS EVIDENCE THERE THAT IF YOU WANT TO BELIEVE IT, WOULD HAVE A LOT OF DIRECT ONE-ON-ONE . . . ALLEGEDLY FROM THE GOVERNMENT WITNESSES, DIRECT ONE-ON-ONE TRANSACTIONS BETWEEN BELTRAN AND HIS AGENT AND SHERIFF MARMOLEJO THAT WOULD EASILY GET TO A SERIES OF TRANSACTIONS OF MORE THAN FIVE THOUSAND DOLLARS.

NOW, THAT DOESN'T MEAN YOU HAVE TO BELIEVE THAT. AND, OF COURSE, IF YOU DON'T BELIEVE THAT, WHY, THEN NEITHER ONE OF THEM ARE GUILTY OF THAT OFFENSE AT ALL, BECAUSE THEN THEY EITHER WERE NOT TAKING ANYTHING OR THEY WERE NOT TAKING . . . OR AT LEAST THEY WERE NOT TAKING ANYTHING OR THEY WERE NOT TAKING IT WITH ANY INTENT TO BE INFLUENCED OR REWARDED IN ANY OF THEIR DECISIONS HAVING TO DO WITH THE SHERIFF'S OFFICE. SO THAT'S COUNT THREE.

NOW, IF YOU'LL JUST FLIP THE PAGE AND LOOK AT COUNT FOUR, COUNT FOUR IS ABSOLUTELY

IDENTICAL. THE ONLY DIFFERENCE IS THAT WE NOW SHIFT TO . . . WE NOW SHIFT THE PERIOD. IN OTHER WORDS, FOR THE PERIOD OF DECIDING WHETHER [p. 1726] THE AGENCY RECEIVED TEN THOUSAND DOLLARS OR NOT, WE NOW ARE LOOKING AT SEPTEMBER 1, 1992 TO SEPTEMBER 1 OF 1993.

NOW, AGAIN, THAT PART IS KIND OF EASY, BECAUSE AS I UNDERSTAND THE EVIDENCE, THEY WERE ALL . . . THE SHERIFF'S AGENCY . . . THE AGENCY WAS ALWAYS RECEIVING PLENTY OF FEDERAL MONEY. SO YOU MAY NOT HAVE MUCH OF A PROBLEM THERE AS FAR AS DECIDING THAT THE AGENCY STILL RECEIVED TEN THOUSAND DOLLARS DURING THAT PERIOD ALSO. BUT NOW WE HAVE A DIFFERENT PERIOD OF OCTOBER OF '92 TO JULY OF '93 IN WHICH . . . FOR YOU TO DECIDE WHETHER EITHER OR BOTH OF THESE DEFENDANTS AGAIN WERE RECEIVING SOMETHING OF VALUE WITH THE INTENT TO BE INFLUENCED OR REWARDED IN CONNECTION WITH THE BUSINESS OF THE OFFICE OVER A SERIES OF TRANSACTIONS THAT HAD A VALUE OF FIVE THOUSAND DOLLARS OR MORE.

NOW, AGAIN . . . AND I'M NOT ENDORSING THIS OR NOT. I'M JUST SAYING THAT THE GOVERNMENT EVIDENCE WOULD INDICATE, IF YOU BELIEVE THE GOVERNMENT EVIDENCE, THAT THERE WERE A SERIES OF TRANSACTIONS ON BOTH HALVES, BOTH TIME PERIODS, THAT HAD A VALUE OF MORE THAN FIVE THOUSAND DOLLARS IF YOU ADD UP EITHER THE WATCHES OR THE CAR OR THE MONEY OR THE INSTALLMENT PAYMENTS AND SO FORTH. ALL OF

THAT, THAT YOU'VE HEARD, IF YOU ACCEPT ALL OF THAT, WELL, THEN THE FIVE THOUSAND DOLLARS IS NOT A DIFFICULT FIGURE TO ACHIEVE. AND, OBVIOUSLY, IF YOU DO NOT ACCEPT THAT TESTIMONY, WELL, THEN YOU DO NOT ACCEPT THAT TESTIMONY AND THEN THERE MAY BE NO [p. 1727] FIVE THOUSAND DOLLARS. AND FOR THAT MATTER, THEN IT'S THE OTHER KEY ELEMENT, THAT THEY WERE NOT RECEIVING IT WITH THE INTENTION TO BE INFLUENCED IN THEIR DECISIONS IN CONNECTION WITH THE TRANSACTIONS OF THE OFFICE. BUT ANYWAY, THAT'S COUNTS THREE AND FOUR.

NOW, LET'S TURN TO THE LAST ONE. AND I THINK I ALREADY TOLD YOU THIS. YOU CAN VOTE ON THESE COUNTS IN ANY ORDER YOU WANT TO, BUT I'M GOING TO EXPLAIN THEM IN WAYS THAT I THINK IS EASIER FOR ME TO EXPLAIN TO YOU. LET'S TAKE THE LAST ONE ON PAGE 47, AND THAT'S THE SO CALLED TRAVEL COUNT. AND BEFORE WE TAKE THAT ONE UP, LET ME EXPLAIN TO YOU VERY CAREFULLY, AND PLEASE LISTEN TO THIS. AND YOU CAN LOOK AT THAT OVER THERE, THAT ONE OF THE DEFENDANTS PUT UP THERE, THAT LOWER GRAPH THERE. THAT IS THE DEFINITION OF BRIBERY UNDER TEXAS LAW.

NOW, THIS STATUTE I JUST TOLD YOU ABOUT A MINUTE AGO IS ESSENTIALLY A FEDERAL BRIBERY STATUTE THAT SAYS YOU RECEIVE ANYTHING OF VALUE IN RETURN FOR INTENDING TO BE INFLUENCED. THE TEXAS STATUTE IS SIMILAR TO THAT; IT JUST HAS DIFFERENT WORDING. BUT THAT'S IT

THERE. WHAT THEY'VE SHOWN YOU THERE IS CORRECT, BUT LET ME JUST GO OVER THAT WITH YOU.

WHAT THAT PARTICULAR STATUTE MAKES A CRIME . . . AND THAT'S A TEXAS STATUTE. IT MAKES IT A CRIME . . . AND HERE ARE THE ELEMENTS OF IT. NUMBER ONE, IF YOU ARE A PUBLIC

* * *

[p. 1765]* * *

AGE. SO JUST PASS ON THE PREDICATE ACTS THE WAY THEY ARE, BUT I'M WARNING YOU THAT SOME OF THEM . . .

FOR EXAMPLE, LET'S JUST PICK ANY OF THEM. FOR EXAMPLE, TURN TO PAGE 13. AT THE BOTTOM OF THE PAGE, YOU'LL SEE RACKETEERING ACT NO. 9, AND IF YOU TURN THE PAGE, TO PAGE 14, RACKETEERING ACT NO. 9 IS REALLY A, B, C, AND D AND IT GOES ALL THE WAY OVER TO THE NEXT PAGE BEFORE YOU GET TO NO. 10. SO IN RACKETEERING ACT NO. 9, THE GRAND JURY CHARGED IT AND SO YOU JUST HAVE TO TAKE IT . . . "YES" OR "NO" AS A PACKAGE AND THE PACKAGE IS A SERIES OF ONE THOUSAND DOLLAR PAYMENTS IN APRIL, APRIL 1, APRIL 4, APRIL 8, AND APRIL 11. SO THERE, YOU'RE GOING TO HAVE TO JUST DO "YES" OR "NO". IF YOU DON'T FIND THOSE OCCURRED, WELL, THEN – OR ALL OF THEM OCCURRED, WELL, THEN IT'S NO; IF YOU FIND ALL OF THEM OCCURRED, IT'S YES.

NOW, AS YOU GO THROUGH EACH OF THESE PREDICATE ACTS, THOSE ALSO HAVE TO BE UNANIMOUS, AND I'LL GET BACK TO THAT AT THE END. JUST LIKE ON THE MONEY LAUNDERING OR ANYTHING ELSE, WHICH HAS TO BE UNANIMOUS, ON THIS ONE, EACH ACT HAS TO BE UNANIMOUS. ON PREDICATE ACT NO. 1, YOU HAVE TO UNANIMOUSLY AGREE, "YES" OR "NO". IT HAS TO BE UNANIMOUS. PREDICATE ACT NUMBER – NOT NO. 1. WE DON'T HAVE NO. 1. BUT NO. 2, NO. 3, NO. 4,

ALL OF THOSE HAVE TO BE UNANIMOUS IN ORDER TO FIND THAT THEY EXIST.

NOW, FINALLY, COUNT NO. 2. WHAT COUNT NO. 2 [p. 1766] CHARGES IS A CONSPIRACY BETWEEN MARMOLEJO AND SALINAS TO COMMIT RICO. IN OTHER WORDS, COUNT ONE, THE RACKETEERING ACT, IS WHAT IS CALLED "RICO". IT'S THE RACKETEERING . . . WHATEVER "RICO" STANDS FOR. ANYWAY, IT STANDS FOR . . . IT'S SHORTHAND FOR THE RICO RACKETEERING SOMETHING OR OTHER, OR INTERSTATE SOMETHING OR OTHER. BUT IT'S THE RICO, R-I-C-O. AND THAT'S COUNT ONE. ON COUNT TWO, INSTEAD OF CHARGING THAT THEY ACTUALLY COMMITTED RICO, IT CHARGES THAT THEY AGREED TO DO IT. IN OTHER WORDS, IT'S A SEPARATE OFFENSE. IT CHARGES THAT THEY CONSPIRED TO COMMIT THE RACKETEERING INFLUENCED CORRUPT ORGANIZATION ACT, "RICO".

NOW, WHAT'S A CONSPIRACY? A CONSPIRACY IS AN AGREEMENT BETWEEN TWO PEOPLE. IT'S AN AGREEMENT TO DO SOMETHING ILLEGAL. IT'S AN AGREEMENT TO BREAK THE LAW. YOU CAN HAVE A CONSPIRACY TO DO ALMOST ANYTHING. YOU CAN HAVE A CONSPIRACY TO ROB A BANK, YOU CAN HAVE A CONSPIRACY TO KIDNAP SOMEBODY, YOU CAN HAVE A CONSPIRACY TO DO DRUG DEALING, BUT IN THIS CASE, THE ONLY CONSPIRACY THAT YOU'RE FOCUSSING ON, THE ONLY CONSPIRACY WE'RE TALKING ABOUT, IS A CONSPIRACY TO COMMIT RICO. SO THE GOVERNMENT IS CHARGING THAT THESE TWO GENTLEMEN OVER HERE

REACHED AN AGREEMENT TO VIOLATE THE RACKETEERING ACT. AND THAT'S WHAT A CONSPIRACY IS. IT'S A COMBINATION BETWEEN AT LEAST TWO PEOPLE TO AGREE TO DO SOMETHING ILLEGAL.

NOW, THE GOVERNMENT WOULD NOT HAVE TO PROVE TO [p. 1767] YOU THAT THEY SAT DOWN AND DRAFTED A CONTRACT AND THE GOVERNMENT DOESN'T HAVE TO PROVE THAT THEY SAT DOWN AND HAD SOME KIND OF HANDSHAKE AGREEMENT OR SOMETHING, BUT THE GOVERNMENT DOES HAVE TO PROVE TO YOU THAT THEY REACHED AN UNDERSTANDING, A MEETING OF THE MINDS, THAT THEY WERE GOING TO WORK TOGETHER AND COMMIT THIS OFFENSE. IN OTHER WORDS, TOGETHER, THEY WERE GOING TO OPERATE THE SHERIFF'S OFFICE IN A PATTERN OF RACKETEERING, IN A RELATED SERIES OF BRIBES FROM BELTRAN AND HIS ASSOCIATE, GUARDADO, IN RETURN FOR DOING THINGS FOR HIM, THAT THEY WERE GOING TO ENGAGE IN THIS PATTERN OF CONDUCT. SO COUNT TWO ADDRESSES THE AGREEMENT ITSELF.

SO WHAT THE GOVERNMENT HAS TO PROVE IS THAT THE TWO OF THESE GENTLEMEN REACHED AN AGREEMENT WITH EACH OTHER THAT THEY WERE GOING TO RUN THE SHERIFF'S OFFICE THROUGH A PATTERN OF RACKETEERING ACTS, THAT THEY WERE GOING TO RUN THE SHERIFF'S OFFICE THROUGH A SYSTEM OF COLLECTING BRIBES FROM ONE OF THESE PRISONERS IN RETURN FOR DOING FAVORS FOR HIM, AND THAT EACH OF THE DEFENDANTS KNEW THAT THAT WAS THE

IDEA AND THAT EACH OF THEM WILLFULLY JOINED IN.

NOW, YOU CAN BECOME A MEMBER OF A CONSPIRACY EVEN IF YOU DON'T KNOW ALL OF THE DETAILS, AS LONG AS YOU KNOW THE ESSENCE OF WHAT THE ILLEGALITY OF IT IS. SO IF EITHER DEFENDANT UNDERSTANDS THAT THIS IS AN UNLAWFUL SCHEME AND HE UNDERSTANDS THE NATURE OF IT, HE UNDERSTANDS EXACTLY THAT IT'S A PLAN TO RUN THE SHERIFF'S OFFICE WITH A PATTERN [p. 1768] OF RACKETEERING, AND THEREAFTER DELIBERATELY JOINS IN AND HELPS OUT, EVEN ON A SMALLER SCALE, EVEN IF HE'S NOT INVOLVED ALL THE TIME, EVEN IF HE ONLY HELPS OUT SOMETIMES, THEN HE CAN BE GUILTY OF CONSPIRACY SO LONG AS . . . AND I REPEAT AGAIN; THIS IS VERY IMPORTANT. SO LONG AS HE UNDERSTANDS THAT WHAT'S GOING ON HERE IS THE RUNNING OF THE SHERIFF'S OFFICE NOT JUST WITH ONE BRIBE, BUT WITH A SERIES OF BRIBES, A PATTERN OF RACKETEERING, A SERIES OF BRIBES RELATED TO EACH OTHER OVER A PERIOD OF TIME, FOR THE PURPOSE OF GIVING . . . IN RETURN, RATHER, FOR ACCEPTING BRIBES IN CONSIDERATION FOR DOING FAVORS AND BENEFITS FOR THIS PARTICULAR PRISONER.

SO THE GOVERNMENT, IN COUNT TWO, WOULD HAVE TO PROVE TO YOU THAT EACH DEFENDANT KNEW THAT THAT'S WHAT WAS GOING ON, THAT THERE WAS THIS RICO ENTERPRISE GOING ON, CONDUCTING A PATTERN OF RACKETEERING ACTIVITIES, SPECIFICALLY BRIBERY, IN THE JAIL

THERE AND THAT EACH OF THEM KNEW AND UNDERSTOOD AND AGREED THAT AT LEAST TWO PREDICATE ACTS WERE GOING TO BE COMMITTED AND THAT, THEREAFTER, EACH OF THEM JOINED IN AND DID SOMETHING TO HELP.

NOW, AGAIN, FOR BELTRAN – I MEAN, FOR MARMOLEJO . . . AND I'M NOT ENDORSING THIS. I'M JUST TELLING YOU. BECAUSE THE EVIDENCE IS THAT HE'S THE MAIN PERSON DIALOGING AND RECEIVING AND SO FORTH, THAT PART WOULD BE ONE FACTOR. IN THE FACTOR OF SALINAS, OF COURSE, HIS ROLE IS LESSER. SO WHAT YOU HAVE TO ASK YOURSELF THERE IS, WAS, IN [p. 1769] FACT, THIS PATTERN GOING ON AT ALL. IF YOU'VE ALREADY DECIDED IN COUNT ONE THAT THERE IS NO SUCH PATTERN GOING ON, WELL, THAT'S THE END OF COUNT ONE, AND IT'S ALSO THE END OF COUNT TWO.

BUT IF YOU HAVE FOUND THAT THIS PATTERN IS GOING ON, YOU WOULD'VE ALREADY GONE THROUGH A WHOLE SERIES OF ACTS FOR MARMOLEJO AND YOU WOULD'VE ONLY GONE THROUGH TWO FOR MR. SALINAS. WHAT YOU'RE BEING ASKED TO DECIDE IN COUNT TWO IS . . . IF SALINAS WAS ONLY INVOLVED IN ONE OR TWO OR EVEN NONE, DID HE, NEVERTHELESS, KNOW ABOUT THIS PATTERN. DID HE KNOW THAT THIS WHOLE PATTERN OF ACTIVITY WAS GOING ON AND DID HE THEN KNOWINGLY AND WILLFULLY JOIN IN AND PARTICIPATE AND CONTRIBUTE IN SOME FASHION.

NOW, PARTICULARLY HERE, THE EVIDENCE IS . . . AND THIS IS EVIDENCE THAT YOU CAN TAKE OR LEAVE. I'M NOT ENDORSING IT. BUT THE EVIDENCE IS THAT ON SOME OCCASIONS . . . THAT WERE FRANKLY NOT SPECIFIED, AS TO WHICH ONES. BUT ACCORDING TO THE GOVERNMENT WITNESSES, THAT ON TWO OR THREE OCCASIONS, THAT SALINAS WOULD, IN EFFECT, TAKE OVER. THAT HE WOULD NOT RECEIVE THE MONEY, BUT THAT HE WOULD BE SORT OF THE DEPUTY, WHICH IS WHAT HE WAS, AND THAT THE INSTRUCTIONS WERE, "IF I'M NOT IN AND YOU WANT THESE SERVICES, CALL DEPUTY SALINAS AND HE'LL TAKE CARE OF IT FOR YOU". SO THE GOVERNMENT POINTS TO THAT AS EVIDENCE THAT HE KNOWINGLY AND WILLFULLY PARTICIPATED IN THIS SCHEME EVEN THOUGH HE HIMSELF WAS NOT RECEIVING [p. 1770] BENEFITS THAT MUCH AND EVEN THOUGH HE HIMSELF WAS OBVIOUSLY NOT, AS BETWEEN THE TWO, THE PRIMARY ACTOR.

SO WHAT YOU HAVE TO DECIDE IS WHETHER THAT'S TRUE. WHETHER, NUMBER ONE . . . IN FACT, WHETHER THERE WAS THIS PATTERN OF RACKETEERING GOING ON IN THE JAIL, AND THEN IF SO, DID HE . . . WERE BOTH OF THEM INVOLVED, IN OTHER WORDS, DID BOTH OF THEM UNDERSTAND THE SCOPE OF IT, AND THEN DID SALINAS DELIBERATELY AND WILLFULLY AND KNOWINGLY, WITH CRIMINAL INTENT, JOIN IN TO HELP SHERIFF MARMOLEJO DO THIS ON SEVERAL OCCASIONS, AT LEAST TWO, TWO OR MORE OCCASIONS, DID HE DO

SOMETHING TO JOIN IN AND HELP OUT TO COMMIT THIS OFFENSE.

NOW, AGAIN I HAVE TO TELL YOU THE SAME THING I TOLD YOU UNDER AIDING AND ABETTING. YOU MUST FIND THAT HE KNEW THE CRIMINAL ACTIVITY WAS GOING ON AND THAT HE HAD A CRIMINAL INTENT. IT'S NOT ENOUGH TO FIND THAT HE SIMPLY WORKS THERE AND IT'S NOT ENOUGH TO FIND THAT HE ASSOCIATES WITH THE SHERIFF, BECAUSE, OF COURSE, HE DOES. I MEAN, HE'S THE DEPUTY THERE. AND IT'S NOT ENOUGH TO FIND THAT HE MAYBE WAS JUST CARRYING OUT FUNCTIONS IN THE JAIL. YOU HAVE TO FIND . . . IN ORDER TO FIND HIM LIABLE FOR A CONSPIRACY, YOU HAVE TO FIND THAT HE KNEW WHAT WAS GOING ON, THAT HE KNEW THE EXTENT OF THE CRIMINAL ACTIVITY GOING ON . . . ASSUMING THAT YOU FIND THAT IT WAS GOING ON, THAT HE KNEW THAT, IN FACT, A RACKETEERING ACTIVITY WAS GOING ON AND THAT HE DELIBERATELY JOINED IN ON THE CONSPIRACY. THAT'S IT. I HOPE YOU UNDER-[p.1771]STAND IT.

SOME FINAL COMMENTS. YOU WILL SEE "KNOWINGLY" THROUGHOUT THE INDICTMENT AND "KNOWINGLY" SIMPLY MEANS THE DEFENDANTS KNOW WHAT THEY'RE DOING. THEY KNOW WHAT THEY'RE DOING AND THEY'RE ACTING FREELY AND VOLUNTARILY. THEY HAVE ALL THE FACTS AND IT'S NOT AN ACCIDENT AND IT'S NOT A MISTAKE. "INTENTIONALLY" MEANS THAT THEY ARE ACTING WITH CRIMINAL INTENT. YOU'LL SEE THE WORD ALL THE TIME, "INTENTIONALLY, AND

THAT MEANS THEY KNEW THAT THEY WERE VIOLATING THE LAW. THEY KNEW THAT THEY WERE DOING SOMETHING THAT THE LAW FORBIDS.

NOW, THERE ARE DIFFERENT CRIMES IN HERE. YOU SEE . . . I HOPE YOU UNDERSTAND NOW THAT THEY ARE ALL CONNECTED, THEY ALL HAVE THAT SORT OF SAME FOUNDATION, BUT THEY ARE DIFFERENT. SHERIFF MARMOLEJO IS IN EVERY COUNT AND MR. SALINAS IS ONLY IN COUNTS ONE, TWO, RICO AND CONSPIRACY TO COMMIT RICO, AND HE'S IN THREE AND FOUR, THE TWO . . . WHAT I CALL THE FEDERAL BRIBERY STATUTES UNDER 666. HE'S NOT IN THE THREE MONEY-LAUNDERING COUNTS AND HE'S NOT IN THE TRAVEL ACT. SO YOU MUST REMEMBER, AS YOU GO THROUGH HERE, THAT WE HAVE SEPARATE DEFENDANTS AND WE HAVE SEPARATE COUNTS AND SO YOU HAVE TO VOTE ON EACH COUNT AND YOU HAVE TO VOTE ON EACH DEFENDANT.

NOW, REMEMBER AGAIN THAT THAT'S WHAT YOU'RE HERE TO ANSWER. YOU'RE HERE TO ANSWER, ARE THEY GUILTY OR

• • •

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

UNITED STATES OF AMERICA PLAINTIFF, VS. BRIGIDO MARMOLEJO, JR., MARIO SALINAS, ELOY ZAVALA, AND EDELMIRO FLORES, DEFENDANTS.	•	CRIMINAL NO. M-94-010-02

SPECIAL VERDICT FORM AS TO MARIO SALINAS

(Filed Jul. 27, 1994)

As to Defendant Mario Salinas:

COUNT ONE

We, the Jury, find the defendant, MARIO SALINAS, of Count One: ~~GUILTY~~/NOT GUILTY.

RACKETEERING ACT #5: Of committing Racketeering Act #5, we, the Jury, find the defendant, MARIO SALINAS, GUILTY/~~NOT GUILTY~~.

RACKETEERING ACT #12: Of committing Racketeering Act #12, we, the Jury, find the defendant, MARIO SALINAS, ~~GUILTY~~/NOT GUILTY.

COUNT TWO

We, the Jury, find the defendant, MARIO SALINAS, of Count Two: GUILTY/~~NOT GUILTY~~.

COUNT THREE

We, the Jury, find the defendant, MARIO SALINAS, of Count Three: GUILTY/~~NOT GUILTY~~.

COUNT FOUR

We, the Jury, find the defendant, MARIO SALINAS, of Count Four: GUILTY/~~NOT GUILTY~~.

DATE: 7/27/94

/s/ Illegible
FOREMAN

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION

UNITED STATES OF AMERICA Plaintiff, VS. MARIO SALINAS Defendant.	§ § § § § § §	CRIMINAL NO. M-94-010

MEMORANDUM AND ORDER

(Filed Aug. 8, 1994)

This Defendant has filed a post-verdict motion for acquittal incorporating allegations made in pretrial motions and adding new challenges to the verdict.

The facts underlying this prosecution involved a series of bribes paid primarily to Sheriff Brigido Marmolejo by a federal inmate of the Hidalgo County Jail in return for contact visits and other special privileges. Defendant Salinas was prosecuted under conspiracy and aiding-and-abetting theories. The bribes came from Homero Heraldo Beltran-Aguirre, a convicted federal felon who, during the events in question, was in the custody of the Hidalgo County Jail pursuant to a contract between the federal government and the Hidalgo County Sheriff's Department under 18 U.S.C. §4002. The contract provided that Hidalgo County would house and feed federal felons for a certain amount of money each day. The Hidalgo County Sheriff's Department received over

$800,000 annually from this contract to house federal prisoners in the County Jail.

Counts Three and Four

Salinas argues that 18 U.S.C. §666 is inapplicable because the Sheriff's Department was not receiving "federal assistance" under the contract in question. The pertinent language of §666 is:

> (a) Whoever, if the circumstance described in subsection (b) of this section exists –
>
> (1) being an agent of an organization, or of a State, local or indian tribal government, or agency thereof –
>
> • • •
>
> (B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, any thing of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $5,000 or more;
>
> shall be fined under this title, imprisoned not more than 10 years, or both.
>
> (b) The circumstance referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one year period, *benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.* (emphasis added)

> (c) This section *does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid and reimbursed, in the usual course of business.* (emphasis added).

Defendant contends that the Hidalgo County Sheriff's Office did not receive federal assistance because the monies received from the government were in exchange for services rendered. Because the federal government received something in return for the money paid, Defendant says it did not confer a "benefit" under the statute. In both *United States v. Stewart,*[1] and *United States v. Webb,*[2] the court stated in dicta that if the government receives a tangible material return – that is, a *quid pro quo* – for funds paid to an entity, that entity has not received a "benefit" under the statute. In *Stewart*, the Defendants – an employee of Bell Helicopter and a third party stole parts from Bell. *Stewart* at 1069. The Government prosecuted under §666, arguing that because Bell Helicopter sold custom-made goods to the government, it received a "benefit under a Federal program involving a contract". *Id.* The court concluded that the statute did not apply because "Congress did not intend the statute to apply in a situation of *quid pro quo.*" *Id.* at 1072.

In *Webb*, the U.S. Department of Housing and Urban Development contracted with a private accounting firm to manage and administer a program which provided rental and utility payment assistance to low and moderate income families. *Webb* at 1169. Several members of the firm, including the defendant, falsified firm records

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[1] 727 F.Supp. 1068, 1072 (N.D.Tex. 1989).

[2] 691 F.Supp. 1164, 1169 (N.D.Ill. 1988).

and embezzled government funds. *Id.* The court dismissed the indictment, stating that government funds paid the firm to manage and administer the program did not constitute benefits under §666. *Id.*

The Second Circuit has recently discredited the *quid pro quo* test as dicta and as an overly broad method for determining the meaning of "benefit" under §666(b). *United States v. Rooney,* 986 F.2d 31 (2nd Cir. 1993). In that case, the court held that a Farmers Home Administration Loan was a "benefit" under the express language and the legislative history of the statute. *Id.* at 34. This Court agrees with *Rooney* that a rigid *quid pro quo* test is not the best approach for interpreting §666(b) and concludes that under both the text of §666(b) and its legislative history, the agreement to house federal prisoners under 18 U.S.C. §4002 was a "benefit[ ] . . . under a Federal program involving a . . . contract." 18 U.S.C. §666(b).

Black's Law Dictionary defines "benefit", *inter alia*, as an "advantage". Black's Law Dictionary (5th Ed. 1979). The contract in question brought the Sheriff's Department an "advantage" in the form of substantial payments of money. *See Rooney* at 34. It is logical to assume that Sheriff Marmolejo would not have voluntarily signed the contract with the federal government if it did not provide a benefit to the Hidalgo County Sheriff's Department.

Moreover, the structure of §666(b) expressly equates a contract with "benefits". As the court stated in *Rooney,* "Federal programs 'involving a grant, contract, subsidy, loan, guarantee, [or] insurance' are a subset of 'form[s] of Federal assistance', which therefore demonstrates that

Congress considered a loan a benefit, even if [the Defendant] does not." *Rooney* at 34. Under this reasoning, a contract is also a "benefit" under the statute. There was also a direct connection between the contract and the bribes in this case, since the bribes were paid by a federal prisoner. But for the contract with the Hidalgo County Sheriff's Department, this prisoner would not have been in the county jail. The United States government has a critical interest in the integrity of a contract to house its prisoners in a local jail.

The Court also notes that the proper inquiry under the statute is not *solely* whether the government provided "federal assistance" but whether the entity received "benefits . . . under a Federal program involving a . . . contract . . . or other form of Federal assistance." 31 U.S.C. §666(b). In support of his argument that the term "assistance" does not include contracts, Defendant cites a separate statute, 31 U.S.C. §6101(3)(B), which states, "assistance . . . does not include . . . [the] procurement of property or services for the direct benefit or use of the government." Yet the Civil Rights Act, which prohibits discrimination under any federally assisted programs, 42 U.S.C. §2000d, specifically includes contracts within its definition of financial assistance. *See* 42 U.S.C. §2000d-1. Therefore, there is no universal statutory definition of the term "assistance".

No Fifth Circuit precedent speaks directly to what *type* of nexus must exist between the federal government and the entity receiving the federal funds to support a §666 conviction. However, the precedent in this and other circuits has consistently emphasized the broad application of §666. *United States v. Snyder,* 930 F.2d 1090 (5th Cir.

1991); *United States v. Moeller*, 987 F.2d 1134, 1137 (5th Cir. 1993); *United States v. Westmoreland*, 841 F.2d 572, 578 (5th Cir.) *cert. denied*, 488 U.S. 820, 109 S.Ct. 62 (1988) ("It is sufficient that Congress seeks to preserve the integrity of federal funds by assuring the integrity of the organizations or agencies that receive them."); *United States v. Cicco*, 938 F.2d 441, 445 (3rd Cir. 1991) (purpose of §666 was to "enlarge and clarify" the class of persons subject to federal bribery laws); *United States v. Simas*, 937 F.2d 459, 463 (9th Cir. 1991) (purpose is to protect the integrity of the entities that receive the federal funds).

The legislative history of §666 broadly defines "federal assistance." The statute was "designed to create new offenses to augment the ability of the United States to vindicate significant acts of theft, fraud, and bribery involving Federal monies . . . and section (b) should be "construed broadly, consistent with the purpose of this section to protect the integrity of the vast sums of money distributed through Federal programs . . . . " S. Rep. No. 225 at 369, 98th Cong., 2d Sess., reprinted in 1984 U.S.Code Cong. & Admin. News 3182, 3511.

The Eighth Circuit has also broadly defined "federal assistance". *United States v. Peery*, 977 F.2d 1230, 1232-33 (8th Cir. 1992). In *Peery*, the Defendant, the Executive Director of the Interstate Radioactive Waste Compact Commission, (IRWCC) a five-state entity in charge of disposal facilities for low-level radioactive wastes generated within the member states, stole funds from the IRWCC. *Id.* at 1231-32. The IRWCC received funds throug' the Department of Energy from a surcharge on various local disposal facilities. *Id.* at 1231. The defendant argued that the IRWCC did not receive benefits from the

federal government because the federal government never actually owned the money it distributed. *Id.* at 1232. The court concluded that the receipt of surcharges was a receipt of benefits because it was done pursuant to a specific statutory scheme designed to promote policy objectives relating to the growing national problem of radioactive waste disposal. *Id.* at 1233.

The Second Circuit in *Rooney* stated that, "The inquiry is not whether there is a *quid pro quo*, but, rather, whether the funds disbursed can be considered Federal assistance within a specific statutory scheme intended to promote public policy objectives and not payment by the government as a commercial entity." *Rooney* at 35. That standard informs the resolution of the pending motion. The contract to house prisoners in the Hidalgo County Jail was made pursuant to a specific statutory scheme which promotes public policy objectives. 18 U.S.C. §4002; *see Peery* at 1233. The statutory purpose is to provide "suitable quarters for the safekeeping, care, and subsistence" of all persons held under federal statutes. 18 U.S.C. §4002. The considerable sums of federal money paid to the Sheriff's Office are not payments in a commercial transaction but rather represent funding for an important governmental function, *i.e.*, providing for the care and custody of federal prisoners. The Court concludes that receipt of bribes from a federal prisoner being housed under this program can support a prosecution under §666.

Defendant Salinas next asserts that the contract to house Beltran was exempt under subsection (c), which states that §666 does not apply to "bona fide salary, wages, fees, or other compensation paid, or expenses

paid and reimbursed, in the usual course of business." Although the text and legislative history of subsection (c) provide little assistance in determining its meaning, courts which have faced this issue have expressly or implicitly concluded that subsection (c) does not apply to the federal funds coming into the entity but rather to funds stolen, embezzled, or otherwise converted from the entity to a third party. *United States v. Stout*, 1994 WL 90025 (E.D. Pa); *United States v. Harloff*, 815 F. Supp. 618 (W.D.N.Y. 1993); *United States v. Urlacher*, 979 F.2d 935 (2d Cir. 1992); *United States v. Shelton*, 816 F. Supp. 1132, 1137 (W.D. Tex. 1993); *United States v. Grubb*, 11 F.3d 426, 434 (4th Cir. 1993). Giving a contrary interpretation would nullify the ability of the federal government to vindicate certain acts of theft, fraud, and bribery and exclude from purview of the statute almost all organizations. *Stout at 3.*

Defendant Salinas also claims that the Sheriff's Department is not a "political subdivision" under Texas law because the elected office of Sheriff "is unique in Texas." Under §666(d)(3), the term "local" means "of or pertaining to a political Subdivision within a State." "Pertain" is defined by Black's Law Dictionary, (Fifth Ed.) as "to belong or relate to, whether by nature, appointment, or custom." Under Texas law, counties are political subdivisions of the state, *Com'rs Ct. of El Paso v. El Paso Cty. Sheriff's*, 620 S.W.2d 900, 901 (Tex.Civ.App. – El Paso 1981, writ ref'd n.r.e.) (citing cases), and the County Sheriff's Office clearly relates to the county. Tex. Const. art. V, §2. That office thus pertains to a political subdivision under §666.

Defendant further contends that §666 is inapplicable because this case did not involve the granting of contracts, accepting of bids, theft of property, granting of leases, "or anything of that nature." Without explaining why, Defendant Salinas apparently reads the statute to apply only to business transactions. In fact, the wording and punctuation of the statute makes it applicable to any business or transaction or series of transactions. The Court is satisfied that the instant case involved a series of transactions, albeit not of the ordinary commercial variety.

Count Two

Defendant Salinas claims that the alleged RICO enterprise, i.e. the Hidalgo County Sheriff's Office, is "one and the same" as the incumbent sheriff himself. The Court disagrees. It is beyond dispute that a governmental agency or entity can constitute a RICO "enterprise." *See, United States v. Angelilli*, 660 F.2d 23, 30-33 (2d Cir. 1981); *United States v. Long*, 651 F.2d 239, 241 (4th Cir. 1981); *United States v. Stratton*, 649 F.2d 1066, 1074 (5th Cir. 1981). The Sheriff's Office is an entity that employs hundreds of people. It has existed for generations and presumably will exist well into the indefinite future. That office is clearly distinct from the various individuals who have been and will be elected sheriff throughout the years.

Defendant also attacks the jury instructions pertinent to Count Two. The Court acknowledges some uncertainty about the state of the law in the Fifth Circuit on this

issue[3] but is convinced that its instructions correctly stated the law of conspiracy. A RICO conspiracy does not require the commission of any overt act but only an agreement to violate the law. *United States v. Coia*, 719 F.2d 1120, 1223-24 (11th Cir. 1983), *cert. denied*, 466 U.S. 973 (1984). The Court instructed the jury that the Government must prove the Defendant was aware of the existence of a racketeering enterprise in that he knew the Sheriff's Office was being operated through a pattern of racketeering acts, specifically a series of bribes – at least more than two – over the course of time described in the indictment. The Government was then required to prove that, knowing these facts, the Defendant knowingly and willfully reached an agreement with the Sheriff to participate in this venture. The basic law of conspiracy should be the same for all crimes. The courts historically have been concerned that a defendant should not be found guilty of a RICO conspiracy simply because he agrees to commit one or even several isolated criminal acts. *United States v. Neapolitan*, 791 F.2d 489, 498-499 (7th Cir. 1986), *cert. denied*, 479 U.S. 1101 (1987). The Court fully addressed this concern in its instructions. There is no logical reason, however, why the Government should be required to prove that the defendant conspired to violate two or more specific, identifiable predicate acts listed in the substantive count. In the instant case, there was ample evidence to support a finding that this Defendant knew that Sheriff Marmolejo was repeatedly granting unusual contact and conjugal visits to a federal prisoner

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[3] *United States v. Faulkner*, 17 F.3d 745, 773-774 (5th Cir. 1994).

over a period of time in return for tangible benefits received from that prisoner. The evidence also indicated that Sheriff Marmolejo instructed the prisoner and his agent that Salinas was a trusted lieutenant who should be contacted for favors whenever the Sheriff were unavailable. The evidence further showed that Salinas in fact handled the visitation arrangements on several occasions, albeit not specifically identified by date. There was also evidence that Salinas accepted from the prisoner two valuable watches for himself and distributed four others to jail personnel. The Court is convinced that this and other evidence supports a finding that Defendant Salinas was a knowing and willful member of a RICO conspiracy.

Defendant Salinas makes miscellaneous other complaints including that the prisoner was not in custody pursuant to a court order, that the predicate acts under RICO were only misdemeanors not felonies under state law, and that a deputy sheriff is not a "public servant" under state in law. With respect to the RADO watches, Defendant protests that they were discovered pursuant to a overbroad search warrant and that, because the watches were allegedly forfeited prior to trial (which the Government disputes), double jeopardy prevented apparently even the mention of the watches as part of the evidence in the trial. These allegations were all addressed by the Court prior to trial and have no merit.

The motion for judgment of acquittal is DENIED.

DONE at Laredo, Texas, this 8th day of August, 1994.

/s/ George P. Kagen
United States District Judge

TRUE COPY I CERTIFY ATTEST:

Michael N. Milby, Clerk

By /s/ B. Garcia
Deputy Clerk

UNITED STATES DISTRICT COURT
Southern District of Texas

UNITED STATES OF AMERICA	**JUDGMENT IN A CRIMINAL CASE** (For Offenses Committed On or After November 1, 1987)
v.	
MARIO SALINAS	Case Number: 7:94CR00010-002
	(Filed Nov. 30, 1994)
	FRANCISCO J. ENRIQUEZ Defendant's Attorney

THE DEFENDANT:

[ ] pleaded guilty to count(s) _____

[ ] pleaded nolo contendere to count(s) _____ which (was)(were) accepted by the court.

[X] was found guilty on count(s) 2, 3 and 4 on 07/27/94 after a plea of not guilty.

Title & Section	Nature of Offense
18 USC § 1962(d)	RICO Conspiracy
18 USC § 666(a)(1)(B) and 18 USC § 2	Bribery in relation to a program receiving more than $10,000 in federal funds.
18 U.S.C. § 666(a)(1)(B) and 18 U.S.C. § 2	Bribery in relation to a program receiving more than $10,000 in federal funds.

Date Offense Concluded	Count Numbers
01/19/94	2
01/18/94	3
01/18/94	4

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

[X] The defendant has been found not guilty on count(s) 1

[ ] Count(s) _____ (is)(are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 464-96-9122

Defendant's Date of Birth: 01/19/56

Defendant's USM No.: 64880-079

Defendant's Mailing Address:
Rt 4 box 74, Santa Fe St.
Edinburg, Texas

NOVEMBER 23, 199[illegible]
Date of Imposition of Judgment

/s/ George P. Kazen
Signature of Judicial Officer

HONORABLE GEORGE P. KAZEN
UNITED STATES DISTRICT JUDGE
Name & Title of Judicial Officer

Defendant's Residence Address:
Rt 4 box 74, Santa Fe St.
Edinburg, Texas

11/29/94
Date

APPROVED:JECJEC/
SUSPO/rm

DEFENDANT: MARIO SALINAS
CASE NUMBER: 7:94CR00010-002

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 36 months on counts 2, 3 and 4 to be served concurrently.

The defendant was advised of his right to appeal the sentence, including the right to appeal in forma pauperis upon proper documentation.

[ ] The court makes the following recommendations to the Bureau of Prisons:

[ ] The defendant is remanded to the custody of the United States Marshal.

[ ] The defendant shall surrender to the United States marshal for this district.
[ ] at ____ a.m./p.m. on _____.
[ ] as notified by the United States Marshal.

[X] The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.

[ ] before 2 p.m. on _____.
[X] as notified by the United States Marshal.
[ ] as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

_____

_____

_____

Defendant delivered on _____ to _____ at _____, with a certified copy of this judgment.

_____
United States Marshal

By _____
Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years on counts 2, 3 and 4 all to run concurrently.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

While on supervised release, the defendant shall not commit another federal, state, or local crime.
While on supervised release, the defendant shall not illegally possess a controlled substance.
While on supervised release, the defendant shall not possess a firearm or destructive device.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Financial Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the following additional conditions:

The defendant shall adhere to the Court-ordered schedule for the payment of a fine or restitution, if any.

STANDARD CONDITIONS OF SUPERVISION

1) the defendant shall not leave the judicial district without the permission of the court or probation officer;

2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;

3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;

4) the defendant shall support his or her dependents and meet other family responsibilities;

5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;

6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;

7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;

8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;

9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;

10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;

11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;

12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;

13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the

probation officer to make such notifications and to confirm the defendant's compliance with such notification requirements.

FINANCIAL PENALTIES

The defendant shall pay the following total financial penalties in accordance with the schedule of payments set out below.

Count	Assessment	Fine	Restitution
2	$50.00	$5,000.00	
3	$50.00	$5,000.00	(concurrent)
4	$50.00	$5,000.00	(concurrent)
Totals:	$150.00	$5,000.00	

FINE

The fine includes any costs of incarceration and/or supervision.

The defendant shall pay interest on any fine of more than $2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the below payment options are subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

[ ] The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

  [ ] The interest requirement is waived.
  [ ] The interest requirement is modified as follows:

RESTITUTION

Restitution has not been ordered in this case.

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

The total fine and other monetary penalties shall be due as follows:

[ ] in full immediately.
[ ] in full not later than _____.
[ ] in _____ installments of $_____ over a period of _____ months to commence 30 days after the date of this judgment. If this judgment imposes a period of incarceration, payment shall be due during the period of incarceration.
[X] in installments to commence 30 days after the date of judgment. If this judgment imposes a period of incarceration, payment shall be due during the period of incarceration. During a period of probation or supervised release supervision, payment of any unpaid balance shall be a condition of supervision and the U.S. probation officer shall establish and may periodically modify the payment schedule, provided that the entire financial penalty is paid no later than the termination of supervision but in no event later than 5 years after release from incarceration.

[ ] The defendant shall pay the costs of prosecution.
[ ] The defendant shall forfeit the defendant's interest in the following property to the United States.

All financial penalty payments are to be made to the Clerk of Court, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

STATEMENT OF REASONS

[X] The court adopts the factual findings and guideline application in the presentence report.

OR

[ ] The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 19

Criminal History Category: I

Imprisonment Range: 30 to 37 months

Supervised Release Range: 2 to 3 years

Fine Range: $ 6,000 to $ 302,000

[X] Fine waived or below the guideline range because of inability to pay.

Restitution: $ N/A

[ ] Full restitution is not ordered for the following reason(s):

[X] The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

[ ] The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

[ ] The sentence departs from the guideline range

[ ] upon motion of the government, as a result of defendant's substantial assistance.

[ ] for the following reason(s):

SUPREME COURT OF THE UNITED STATES

OFFICE OF THE CLERK

WASHINGTON, D.C. 20543

February 24, 1997

Mr. Francisco J. Enriquez
Enriquez & Cantu
4200-B North Bicentennial
McAllen, TX 78504

Re: Mario Salinas
v. United States
No. 96-738

Dear Mr. Enriquez:

The Court today entered the following order in the above entitled case:

The petition for a writ of certiorari is granted. limited to Questions 2 and 3 presented by the petition.

Sincerely,

William K. Suter, Clerk